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Regulations

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 18—WAR SERVICE REGULATIONS

RELEASE FROM GOVERNMENT EMPLOYMENT

In § 18.10 paragraph (a) is amended as follows:

§ 18.10 *Release from Government employment*—(a) *Consent for reappointment, reinstatement, and reemployment.* No department or agency will effect the transfer or the appointment, reappointment, reinstatement, or reemployment within sixty days of separation from the service of any employee, or former employee, as the case may be, of another department or agency without the express prior approval of the Civil Service Commission.

Effective February 9, 1945.

(E.O. 9063 as amended by E.O. 9378, E.O. 9243, 3 CFR Cum. Supp. Directive X, War Manpower Commission, Sept. 14, 1942, 7 F.R. 7298)

By the United States Civil Service Commission.

[SEAL] H. B. MITCHELL, *President.*

JANUARY 18, 1945.

[F. R. Doc. 45-1507; Filed, Jan. 25, 1945; 11:09 a. m.]

TITLE 7—AGRICULTURE

Chapter XI—War Food Administration (Distribution Orders)

[WFO 42a, Amdt. 3]

PART 1460—FATS AND OILS

REDUCTION OF QUOTAS

War Food Order No. 42a, as amended (9 F.R. 12078, 14926), is further amended by deleting the table at the end of paragraph (b) (1) and substituting in lieu thereof the following:

Class of product:	*Permitted percentage*
Paints, varnishes, lacquers, and other protective coatings	50
Linoleum, oilcloth (for floor coverings), and felt base floor coverings	50
Oilcloth (except for floor coverings) and all other coated fabrics	50
Paint containing not more than 2 pounds of fats and oils per gallon (by a manufacturer of paste water, dry casein or dry protein paint) during the base period	50

This amendment shall become effective at 12:01 a. m., e. w. t., January 1, 1945. With respect to violations, rights accrued, liabilities incurred, or appeals taken, prior to said date, under War Food Order No. 42a, as amended, all provisions of said order shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, liability, or appeal.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 24th day of January 1945.

ASHLEY SELLERS, *Assistant War Food Administrator.*

[F. R. Doc. 45-1478; Filed, Jan. 24, 1945; 3:27 p. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 4818]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

ED. W. ARNOLD COMPANY, ET AL.

§ 3.6 (n) *Advertising falsely or misleadingly—Nature—Product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product or service:* §3.96 (a) *Using misleading name—Goods—Qualities or properties.* In connection with the offering for sale, sale or distribution of respondents' bath cabinet designated "Arnold's Electro-Vaporized Mineral Bath" and "New Deluxe Multi-Treatment Cabinet" and respondents' massaging device designated "Tu-Way Massager" or any other articles or devices of substantially similar construction or possessing substantially

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FEDERAL REGISTER

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similar properties, whether sold under the same names or any other names, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means to induce, etc., directly or indirectly, purchase in commerce, etc., of said products, which advertisements represent, directly or by implication, (a) that respondents' bath cabinet is a cure or remedy for or possesses any therapeutic value in the treatment of diabetes, high blood pressure, blood disorders, dropsy, asthma, fevers, toxic or acid conditions, sclerosis, kidney trouble, blindness, gonorrhea, cancer, syphilis, paralytic insanity, colds, sore throat, catarrhal conditions, ulcers, erysipelas, adhesions, skin eruptions, cysts, ear discharges, head noises, tuberculosis of the bowels, rectal troubles, heart troubles, cramps, pains or tortures peculiar to women, weaknesses or worn down conditions, general debility, sleeping sickness, blood poison, poisons from bad teeth, or rheumatic fever; (b) that said cabinet is a cure or remedy for rheumatism, lumbago, or neuritis; or that it possesses any therapeutic value in the treatment of such conditions except insofar as it may, through the application of heat, afford temporary relief for the pains accompanying such conditions; (c) that said cabinet is a cure or remedy for St. Vitus's dance; or that it possesses any therapeutic value in the treatment of such condition except insofar as it may afford temporary comfort and relaxation through the application of heat; (d) that said cabinet is a cure or remedy for insomnia; or that it possesses any therapeutic value in the treatment of such condition except insofar as it may afford temporary soothing and relaxing effects through the application of heat; (e) that said cabinet is a cure or remedy for headaches; or that it possesses any therapeutic value in the treatment of headaches except insofar as it may, through the application of heat, afford temporary soothing and relaxing effects upon the nerves in the case of nervous headaches; (f) that said cabinet will reduce obesity, build up underweight, restore vim or vigor, eliminate broken down tissues, increase vitality, increase the activity of the liver, or combat poisons; or that said cabinet will neutralize bacterial poisons, cell wastes or other undesirable matter, or eliminate such conditions from the body; (g) that said cabinet will rejuvenate or vitalize the nervous system, cleanse or purify the blood, eliminate contraction of the blood capillaries, thin the blood, increase oxidation, neutralize or eliminate toxins or poisons, or "detoxinize" the body; (h) that said cabinet constitutes an effective method of health culture or health building, or of preventing disease; (i) that said cabinet contains healing elements or aids in restoring health to those who are diseased; (j) that said cabinet affords any therapeutic benefits in the treatment of any ailment or condition other than such temporary benefits as may result from the application of the heat generated by the cabinet; (k) that respondents' massaging device is a scientific instrument or produces a scientific massage; (l) that said device saves time or labor; (m) that said device will reduce fat spots, reduce the waistline, or otherwise reduce the weight or recontour the body; (n) that the use of said device leaves the flesh more firm or solid, picks up or kneads the flesh, or oxidizes fatty deposits within the body; (o) that said device relieves constipation or promotes regular bowel action; (p) that said device limbers up or relieves tension in sore, stiff, or aching muscles in the feet, legs, neck, or any other part of the body; (q) that said device relieves insomnia or induces sleep; (r) that said device relieves nerve pressure or nerve tension; (s) that said device affords to the surface of the body benefits equivalent to those afforded by exercise; or which advertisements (t) use the word "Mineral" to designate, describe, or refer to respondents' bath cabinet, or otherwise represent, directly or by implication, that a mineral bath may be obtained by the use of said cabinet; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sec. 45b) [Cease and desist order, Ed. W. Arnold Company, et al., Docket 4818, December 20, 1944]

In the Matter of Ed. W. Arnold Company, a Common Law Trust Doing Business Under the Trade Names Edward W. Arnold Company and Edw. W. Arnold Company, and Ed. W. Arnold, Individually and as Sole Trustee of Ed. W. Arnold Company, a Common Law Trust.

At a regular session of the Federal Trade Commission, held at its office in

the City of Washington, D. C., on the 20th day of December, A. D. 1944.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission (no answer having been filed by respondents), testimony and other evidence, report of the trial examiner upon the evidence, and briefs in support of and in opposition to the complaint (oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Ed. W. Arnold Company, a common law trust, trading as Edward W. Arnold Company and as Edw. W. Arnold Company, or trading under any other name, and Ed. W. Arnold, individually and as sole trustee of Ed. W. Arnold Company, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondents' bath cabinet designated "Arnold's Electro-Vaporized Mineral Bath" and "New Deluxe Multi-Treatment Cabinet" and respondents' massaging device designated "Tu-Way Massager," or any other articles or devices of substantially similar construction or possessing substantially similar properties, whether sold under the same names or any other names, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication:

(a) That respondents' bath cabinet is a cure or remedy for or possesses any therapeutic value in the treatment of diabetes, high blood pressure, blood disorders, dropsy, asthma, fevers, toxic or acid conditions, sclerosis, kidney trouble, blindness, gonorrhea, cancer, syphilis, paralytic insanity, colds, sore throat, catarrhal conditions, ulcers, erysipelas, adhesions, skin eruptions, cysts, ear discharges, head noises, tuberculosis of the bowels, rectal troubles, heart troubles, cramps, pains or tortures peculiar to women, weaknesses or worn down conditions, general debility, sleeping sickness, blood poison, poisons from bad teeth, or rheumatic fever;

(b) That said cabinet is a cure or remedy for rheumatism, lumbago, or neuritis; or that it possesses any therapeutic value in the treatment of such conditions except insofar as it may, through the application of heat, afford temporary relief for the pains accompanying such conditions;

(c) That said cabinet is a cure or remedy for St. Vitus's dance; or that it possesses any therapeutic value in the treatment of such condition except insofar as it may afford temporary comfort and relaxation through the application of heat;

(d) That said cabinet is a cure or remedy for insomnia; or that it possesses any therapeutic value in the treatment of such condition except insofar as it may afford temporary soothing and relaxing effects through the application of heat;

(e) That said cabinet is a cure or remedy for headaches; or that it possesses any therapeutic value in the treatment of headaches except insofar as it may, through the application of heat, afford temporary soothing and relaxing effects upon the nerves in the case of nervous headaches;

(f) That said cabinet will reduce obesity, build up underweight, restore vim or vigor, eliminate broken down tissues, increase vitality, increase the activity of the liver, or combat poisons; or that said cabinet will neutralize bacterial poisons, cell wastes, or other undesirable matter, or eliminate such conditions from the body;

(g) That said cabinet will rejuvenate or vitalize the nervous system, cleanse or purify the blood, eliminate contraction of the blood capillaries, thin the blood, increase oxidation, neutralize or eliminate toxins or poisons, or "detoxinize" the body;

(h) That said cabinet constitutes an effective method of health culture or health building, or of preventing disease;

(i) That said cabinet contains healing elements or aids in restoring health to those who are diseased;

(j) That said cabinet affords any therapeutic benefits in the treatment of any ailment or condition other than such temporary benefits as may result from the application of the heat generated by the cabinet;

(k) That respondents' massaging device is a scientific instrument or produces a scientific massage;

(l) That said device saves time or labor;

(m) That said device will reduce fat spots, reduce the waistline, or otherwise reduce the weight or recontour the body;

(n) That the use of said device leaves the flesh more firm or solid, picks up or kneads the flesh, or oxidizes fatty deposits within the body;

(o) That said device relieves constipation or promotes regular bowel action;

(p) That said device limbers up or relieves tension in sore, stiff, or aching muscles in the feet, legs, neck, or any other part of the body;

(q) That said device relieves insomnia or induces sleep;

(r) That said device relieves nerve pressure or nerve tension;

(s) That said device affords to the surface of the body benefits equivalent to those afforded by exercise;

or which advertisement

(t) Uses the word "Mineral" to designate, describe, or refer to respondents' bath cabinet, or otherwise represents, directly or by implication, that a mineral bath may be obtained through the use of said cabinet.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in paragraph 1 hereof.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] A. N. Ross,
Acting Secretary.

[F. R. Doc. 45-1534; Filed, Jan. 25, 1945; 11:34 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VII—National Housing Agency

[NHA Reg. 60-4D]

PART 704—EXCEPTIONS OF CREDIT FOR DEFENSE HOUSING FROM CONSUMER CREDIT REGULATIONS

DELEGATION OF AUTHORITY TO CREDITORS AND LENDERS TO EXCEPT REMODELING AND REHABILITATION CREDITS FROM THE PROVISIONS OF CONSUMER CREDIT REGULATION

The purpose of this regulation is to repeal NHA Regulation No. 60-4C and to reinstate NHA General Order (Reg.) No. 60-4B (8 F.R. 15312; 24 CFR, 1943 Supp., Part 704).

NHA Regulation No. 60-4C is hereby repealed and NHA General Order (Reg.) No. 60-4B is hereby readopted and made effective on the effective date of this regulation. Form NHA 60-5 (Rev. 8/6/44) shall be used as prescribed in NHA General Order (Reg.) No. 60-4B.

This regulation shall be effective on January 26th, 1945.

(55 Stat. 838; E.O. 9070, 3 CFR, Cum. Supp.; 40 Stat. 415, as amended; E.O. 8843; 3 CFR, Cum. Supp.; 12 CFR, Cum. Supp., 222.8 (e))

JOHN B. BLANDFORD, Jr.,
Administrator.

[F. R. Doc. 45-1498; Filed, Jan. 25, 1945; 10:46 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter VI—Solid Fuels Administration for War

PART 602—GENERAL ORDERS AND DIRECTIVES

DIRECTION TO ALL PRODUCERS OF COAL IN DISTRICT 8 SHIPPING TO RETAIL DEALERS

To assure the equitable distribution of coal produced in District 8 to retail dealers, it is necessary, pursuant to SFAW Regulation No. 1, as amended, to issue the folowing direction:

1. Each producer of coal in District 8 who ships coal to retail dealers pursuant to the provisions of SFAW Regulation No. 23, as amended, shall determine the amount of coal which he is obligated to furnish each retail dealer during the period February 1, 1945 to March 31, 1945, and he is prohibited from shipping to any such dealer during the month of February more than 50 per cent of such amount of coal.

In determining the amount of coal which he is obligated to ship to retail dealers, the producer shall:

(a) Include all orders entitled to preference under § 602.505 of SFAW Regulation No. 23 (except as modified by the notice of direction to all persons shipping, and to all retail dealers in the States of Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin receiving certain sizes of high volatile domestic coal produced in District 8, issued January 15, 1945) and coal to be shipped to retail dealers pursuant to specific permission or direction by SFAW; but

(b) Exclude coal in Size Groups 11–14, inclusive, and 18–22, inclusive (as indicated in the minimum price schedules of the former Bituminous Coal Division).

2. Each producer shall submit on or before February 1, 1945, to Mr. Wayne P. Ellis, Area Distribution Manager for District 8, 610 Transportation Building, Cincinnati 2, Ohio, a statement showing separately by areas (as indicated in § 602.505 (a) (3) of SFAW Regulation No. 23) and separately for the months of February and March the aggregate amount of coal which the producer is obligated, consistent with paragraph 1, above, to furnish to retail dealers located in Consuming Areas 1, 2 and the unrestricted portion of 3. This statement shall show separately the amount of coal in Size Groups 1–7, inclusive, 8–9, and 10 (as indicated in the minimum price schedules of the former Bituminous Coal Division).

3. Each producer subject to paragraphs 1 and 2, above, shall furnish to Mr. Wayne P. Ellis, Area Distribution Manager, 610 Transportation Building, Cincinnati 2, Ohio, on or before February 1, 1945, a statement showing the surplus tonnage, grouping sizes as set forth in paragraph 2, above, which he has or expects to have available for distribution to retail dealers during the month of February and during the month of March.

This direction shall become effective immediately.

(E.O. 9332, 8 F.R. 5355; E.O. 9125, 7 F.R. 2719; Sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176)

Issued this 24th day of January 1945.

C. J. POTTER,
Deputy Solid Fuels Administrator for War.

[F. R. Doc. 45–1508; Filed, Jan. 25, 1945; 11:18 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—War Production Board

AUTHORITY: Regulations in this chapter, unless otherwise noted at the end of documents affected, issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 177; E.O. 9024, 7 F.R. 329; E.O. 9040, 7 F.R. 527; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended Dec. 31, 1943, 9 F.R. 64.

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[CMP Reg. 1, as Amended Jan. 25, 1945]

Par.

PURPOSE AND SCOPE

§ 3175.1 *CMP Regulation 1.* (a) This regulation explains how allotments for manufacturing operations are made under the Controlled Materials Plan, how production schedules are authorized and how controlled materials are obtained. Other CMP regulations cover inventory restrictions, preference ratings, warehouses and distributors, maintenance, repair and operating supplies, construction and other matters.

DEFINITIONS

(b) The following definitions shall apply for the purposes of this regulation and for the purposes of any other CMP regulation unless otherwise indicated:

(1) "Controlled material" means steel—both carbon (including wrought iron) and alloy—copper (including copper base alloys) and aluminum, in each case only in the forms and shapes indicated in Schedule I attached.

(2) "Controlled Materials Division" means the Steel Division, the Copper Division or the Aluminum Division of the War Production Board.

(3) "Industry Division" means the Division, Bureau, or other unit of the War Production Board which is charged with supervision over the operations of a particular industry. The term also includes any other government agency which, by arrangement with the War Production Board, may perform similar functions with respect to a particular industry.

(4) "Claimant Agency" means the following government offices and such others as may be designated from time to time. (Identifying symbols are indicated in parentheses.)

War Department (W)—except Ordnance which is identified by the symbol (O).
Navy Department (N).
Maritime Commission (M).
Aircraft Resources Control Office (agent for Army Air Forces and Bureau of Aeronautics of United States Navy (C).
Foreign Economic Administration—Office of Lend-Lease Administration (L).
Foreign Economic Administration—Office of Economic Warfare (E).
Office of Civilian Requirements (V).
Department of Agriculture (A)
Office of Defense Transportation (T).
Office of Rubber Director (R).
Petroleum Administration for War (P).
National Housing Agency (H).
Office of War Utilities (U).

The symbol (F) will be used by several Claimant Agencies to identify certain construction programs; the symbols (B), (G), (J) and (K) will be used to identify certain B product programs; the symbol (D) will be used to identify certain programs covering items destined for the Dominion of Canada; the symbol (S) will be used to identify certain miscellaneous programs including certain B product programs and construction programs; the symbol (SO) will be used to identify small orders as defined in paragraph (1) and the symbol (Z) will be used to identify production authorized under Priorities Regulation 25 and certain other programs. The symbols (B), (D), (F), (G), (J), (K), (Z), (SO) and (RO) constitute Claimant Agency symbols for the purpose of all CMP regulations.

(5) "Allotment" means (i) a determination by the Requirements Committee of the War Production Board of the amount of controlled materials which a Claimant Agency may receive during a specified period, or (ii) a further determination pursuant thereto by a Claimant Agency, Industry Division, prime consumer or secondary consumer, as to the portion of its allotment of controlled materials which may be received by one of its prime consumers or secondary consumers, as the case may be.

(6) "Prime consumer" means any person who receives an allotment of controlled material from a Claimant Agency or an Industry Division.

(7) "Secondary consumer" means any person who receives an allotment of controlled material from a prime consumer or another secondary consumer.

(8) "Class A product" means any product which is not a Class B product (as defined in subparagraph (9) below), and which contains any steel, copper or aluminum, fabricated or assembled beyond the forms and shapes specified in Schedule I, other than such steel, copper or aluminum as may be contained in Class B products incorporated in it as parts or sub-assemblies.

(9) "Class B product" means any product designated as such in the "Official CMP Product List" printed in "Products and Priorities" issued by the War Production Board, as the same may be modified from time to time, which contains any steel, copper or aluminum, fabricated or assembled beyond the forms and shapes specified in Schedule I, other than such as may be contained in other Class B products incorporated in it as parts or sub-assemblies.

(10) "Program" means a plan specifying the total amount of an item or class of items to be provided in a specified period of time.

(11) "Authorized program" means a program specifically authorized by the Requirements Committee or by a Claimant Agency or Industry Division within the limits of its allotment.

(12) "Production schedule" means a plan specifying the total amount of an item or class of items to be produced by

an individual consumer in a specified period of time.

(13) "Authorized production schedule" means a production schedule specifically authorized within the limits of an authorized program by a Claimant Agency or by an Industry Division with respect to a prime consumer, or specifically authorized by a prime or secondary consumer with respect to a secondary consumer producing products for it as required to meet an authorized production schedule.

(14) "Delivery order" means any purchase order, contract, release or shipping instruction which constitutes a definite and complete instruction from a purchaser to a seller calling for delivery of any material or product. The term does not include any contract, purchase order, or other arrangement which, although specifying the total amount to be delivered, contemplates that further instructions are to be given.

(15) "Authorized controlled material order" means any delivery order for any controlled material as such (as distinct from a product containing controlled material) which is placed pursuant to an allotment as provided in paragraph (s) of this regulation or which is specifically designated to be such an order by any regulation or order of the War Production Board.

GENERAL ALLOTMENT PROCEDURE

(c) This paragraph explains the general allotment procedure.

Allotments by Requirements Committee to Claimant Agencies

(1) The Requirements Committee of the War Production Board will distribute the available supply of controlled materials by making allotments to the Claimant Agencies or Industry Divisions for each quarter, designating the amount of each form of controlled material available, during the quarter, to each Claimant Agency or Industry Division for allotment to its prime and secondary consumers.

Allotments by Claimant Agencies to Prime Consumers Producing Class A Products

(2) Each Claimant Agency will distribute the allotments received by it by making further allotments to the prime consumers who produce Class A products for it. Such allotments will designate the amount of each form of controlled material available to each such prime consumer, during the quarter, for use by it or allotment to the secondary consumers producing Class A products as parts or sub-assemblies for it. A prime consumer producing Class A products for several Claimant Agencies shall obtain separate allotments from each. A Claimant Agency, may, in particular cases, make allotments through an Industry Division.

Allotments by Industry Divisions to producers of Class B products

(3) Unless otherwise specifically directed, allotments to producers of Class B products will be made only by Industry Divisions, both in the case of Class B products which are end-products and in the case of Class B products which are incorporated in other products whether Class A or Class B. Allotments made by the Requirements Committee may be made available to the Industry Divisions for this purpose by the Claimant Agencies. Each Industry Division will make allotments to the prime consumers producing Class B products under its jurisdiction. In addition, allotments for products for which application may be made under Priorities Regulation 25, will be made by the Field Offices of the War Production Board. Such allotments will designate the amount of each form of controlled material available to each such prime consumer, during the quarter, for use by it or allotment to secondary consumers producing Class A products for it. A manufacturer of several Class B products coming under the jurisdiction of different Industry Divisions shall obtain separate allotments from each. A consumer producing Class B products is always a prime consumer with respect to such production.

Allotments by Prime and Secondary Consumers

(4) Each prime consumer receiving an allotment may use that portion of the allotment which he requires to obtain controlled materials as such for his authorized production schedule, and shall allot the remainder to his secondary consumers producing Class A products for him, to cover their requirements for controlled materials. Allotments by secondary consumers to secondary consumers supplying them may be made in the same fashion. A secondary consumer producing Class A products for several other consumers shall obtain separate allotments from each.

Advance Allotments

(5) Advance allotments by Claimant Agencies or Industry Divisions to prime consumers may be made within specified limits before receipt of allotments from the Requirements Committee in order to assure fulfillment of long term programs and schedules. Prime consumers receiving such advance allotments may, in turn, make allotments to their secondary consumers, and secondary consumers may make further allotments, in the same manner as in the case of ordinary allotments, but no consumer shall make any allotment in advance of receiving his own allotment.

Allotment Numbers

(6) (i) Allotments to prime consumers shall usually be identified by allotment numbers consisting of a Claimant Agency letter symbol and seven digits. This seven-digit allotment number is known as a: "Full CMP allotment number." The Claimant Agency symbol is indicated after the name of each Agency in paragraph (b) (4) of this regulation. The first four digits identify the authorized program of the Claimant Agency. The next three digits identify the authorized production schedule of the prime consumer. The numerical identification of months and quarters as previously required is abolished. Allotments must show the quarter for which the allotment is valid—for example, "3rd quarter 1943" instead of "19". This may be abbreviated as "3Q43" and should appear immediately following the allotment number. Orders for controlled materials must indicate the month delivery is required instead of a month number—for example, "July, 1943." The change from the numerical system shall take effect on July 1, 1943, but shall not apply to orders placed, or allotments made, before then.

(ii) Allotments to secondary consumers shall be identified by a CMP allotment symbol consisting only of a major program identification. The major program identification shall consist of the Claimant Agency letter symbol followed by the first digit only of the program number (omitting the last three digits of the program number and the entire schedule number). For example, in the case of an allotment to a prime consumer for the third quarter of 1943, designated W–2345–687, the allotment to a secondary consumer will be simply W–2–3Q43 denoting an allotment for major program number 2 of the War Department for delivery of controlled materials in the third quarter of 1943. The term "abbreviated allotment number" will no longer be used. Instead, the term "CMP allotment symbol" will include an abbreviated allotment number, as well as any other symbol (such as, "MRO") which is so designated by any War Production Board order or regulation.

BILLS OF MATERIALS AND APPLICATIONS FOR ALLOTMENTS

(d) This paragraph explains the use of bills of materials, applications for allotments and other information, in making allotments.

General

(1) The basis for an allotment to a consumer shall be his actual requirements for controlled materials in connection with the fulfillment of an authorized production schedule. The production schedule shall be authorized as provided in paragraph (n) of this regulation. Information as to requirements shall be in the form of a bill of materials, an application for allotment and/or other information as provided below in this paragraph (d).

Bills of Materials

(2) A bill of materials shows the amounts of controlled materials required by a consumer and his secondary consumers, irrespective of time of delivery and inventory, for production of one unit or a specified number of units of his product. Bills of materials shall be prepared in the manner specified in "General Instructions on Bills of Materials," on forms CMP–1, CMP–2 and CMP–3 or on such other forms as may be prescribed. No consumer shall be required to furnish a bill of materials on any form which is not officially prescribed (as indicated by a Bureau of Budget number), but in cases where another form is in use which gives the same information as the official form, the Claimant Agency, Industry Division or consumer to whom a bill of materials is to be furnished may accept it on such other form.

Application for Allotment

(3) An application for allotment shows the aggregate amount of each form of

controlled material required (after taking inventories into account to the extent required by CMP Regulation No. 2) by a consumer and his secondary consumers during each quarter for his entire production of a specified product or class of products for the same customer, in the case of Class A products, or for all customers (unless otherwise directed) in the case of Class B products. Applications are to be made by manufacturers of Class A products on Form CMP–4A as issued by the appropriate Claimant Agency, and by manufacturers of Class B products on Form CMP–4B as issued by the War Production Board, Form WPB–4000 (for production under Priorities Regulation 25) or on such other forms as may be prescribed. Allotments are to be made on a quarterly basis and applications for allotments are also to be made on a quarterly basis, in lieu of a monthly basis as originally prescribed, except as may otherwise be required in any allotment or by the applicable application form.

Class B Components Not Included

(4) A bill of materials or application for allotment shall *not* include controlled materials required for manufacture of Class B products which will be incorporated in the product with respect to which the bill of material or application is submitted, although information as to the number or value of such Class B products is to be given in bills of materials to the extent required by the instructions.

MRO Excluded

(5) Requirements for maintenance, repair or operating supplies shall *not* be included in bills of materials or applications for allotment. Requirements for such purposes are to be obtained separately as provided in CMP Regulation No. 5, CMP Regulation No. 5 A and orders in the P and U series.

Where and When to File

(6) Bills of materials and applications for allotments shall be filed with the Claimant Agency, Industry Division or other consumer by whom the allotment is to be made, as indicated in paragraph (c) of this regulation. Bills of materials shall be filed only when and as called for by such Claimant Agency, Industry Division or other consumer. Manufacturers of Class A products shall file applications for allotments only when and as called for by the Claimant Agency or other consumer for whom they make their products. Manufacturers of Class B products who will require controlled materials from controlled materials producers (or whose secondary consumers will require the same) must file applications for allotments on Form CMP–4B by such date as may be designated or approved by the appropriate Industry Division (or in special cases by a Claimant Agency). Those manufacturers of Class B products who will obtain their requirements of controlled materials entirely from warehouses or retailers, and whose secondary consumers will do the same, need not file any applications for allotments. Procedures for obtaining controlled materials from warehouses or retailers, and limitations on the amount which may be obtained are provided in CMP Regulation No. 4. Manufacturers of Class A products who sell them for use as maintenance, repair or operating supplies, or deliver them to distributors, shall obtain allotments on Form CMP–4B as provided in paragraph (k–1) of this regulation.

Additional Information

(7) Each person making an allotment may require such other information in lieu of, or in addition to, a bill of materials or application for allotment as is required to enable him to make the allotment requested or to furnish any bill of materials, application for allotment or other information that may be required of him. If the consumer from whom such other information is requested is of the opinion that compliance with such request would be unreasonably burdensome he may appeal for relief as provided in paragraph (z) of this regulation.

Waiver

(8) Any consumer making an allotment may waive the furnishing of a bill of materials or application for allotment, or both, if he has other information as to actual requirements of his secondary consumers (taking into account the inventory restrictions of CMP Regulation No. 2) which is sufficiently accurate and detailed to enable him to make the allotment and to furnish any bill of materials, application for allotment or other information that may be required of him.

RESPONSIBILITY FOR STATEMENTS OF REQUIREMENTS

(e) (1) The furnishing of any bill of materials, application for allotment or other information as to requirements by a consumer, shall constitute a representation by him to the person to whom it is furnished, to the appropriate Claimant Agency and to the War Production Board, that the statements contained therein are complete and accurate, to the best of his knowledge and belief, not only with respect to such consumer's own requirements but also with respect to those of his secondary consumers.

(2) Any person who ascertains that he has substantially overstated (whether by inadvertence or otherwise) his requirements, or those of his secondary consumers, for any form of controlled material, shall immediately report such error to the person to whom the statement of requirements was furnished. If he has already received an allotment based on such overstatement, he shall immediately cancel or reduce the same (or an equivalent amount of other allotments received for the same authorized production schedule) to the extent of such excess, and report such cancellation or reduction to the person from whom the allotment was received; or if he is unable for any reason to make such cancellation, he shall immediately make a full report to the person from whom he received the allotment, and shall send a copy of such report to the appropriate Claimant Agency or Industry Division, if the allotment was received from another consumer.

(3) If any consumer receives any statement of requirements which he knows or has reason to believe to be substantially excessive (whether by inadvertence or otherwise), he shall withhold any allotment based thereon (either entirely or in an amount sufficient to correct the maximum excess) until satisfied that the statement is not excessive or that it has been appropriately modified. If unable to obtain sufficient information or an appropriate modification, he shall promptly report the matter to the appropriate Claimant Agency or Industry Division. Failure to withhold allotments or to make such report shall be deemed participation in the offense.

(4) If, after making any allotment, a consumer ascertains or has reason to believe that the allotment was substantially in excess of actual requirements, he shall either (i) correct the excess by cancelling or reducing the allotment or other allotments made by him to the same consumer, or (ii) report the matter promptly to the appropriate Claimant Agency or Industry Division. Failure to make such correction or report shall be deemed participation in the offense.

(5) An inadvertent overstatement of requirements shall be deemed substantially excessive for purposes of subparagraphs (2), (3), and (4) of this paragraph (e) if, but only if, it exceeds actual requirements by either (i) one-third or more of actual requirements or (ii) the minimum mill quantity specified in Schedule IV attached, whichever is less.

FORMS IN WHICH ALLOTMENTS MADE

(f) Each allotment, whether made by a Claimant Agency, an Industry Division or a prime or a secondary consumer, shall specify the form of the controlled material allotted. Allotments of steel shall be in terms of (1) carbon steel (including wrought iron) and (2) alloy steel, without further breakdown. Allotments of aluminum will be in terms of "aluminum", without any breakdown, instead of the breakdown formerly provided into nine forms and shapes. Allotments of copper shall be broken down as indicated in Schedule I. A consumer may make allotments only in the same forms of controlled materials in which he has received his allotment, except that a consumer may, if he desires, break allotments of aluminum down into the forms and shapes formerly provided. In such a case, however, the person receiving the allotment may ignore the breakdown and may treat it as though made in terms of "aluminum".

ALLOTMENTS BY CONSUMERS

(g) (1) No consumer shall make any allotment in an amount which exceeds the related allotment received by him, after deducting all other allotments made by him and all orders for controlled materials placed by him pursuant to his related allotment.

(2) No consumer shall make any allotment in excess of the amount required, to the best of his knowledge and belief, to fulfill the related authorized production schedule of the secondary consumer to whom the allotment is made (including the schedules of any secondary consumers supplying the latter).

(3) No consumer shall make any allotment for the production of Class B

products and no person shall accept any allotment from a consumer for the production of Class B products, except as permitted by Direction 36 to CMP Regulation No. 1.

(4) No consumer who has received his allotment for an authorized production schedule shall place any delivery order (other than small orders placed pursuant to paragraph (l) of this regulation) for any Class A product required to fulfill said schedule, unless concurrently therewith, he makes an allotment to the person with whom the order is placed, in the amount required by such person to fill said order (taking such person's inventory into account to the extent required by CMP Regulation No. 2); however, if he purchases a Class A product which has been manufactured under the provisions of paragraph (k–1) of this regulation, he need make no allotment for such product.

(5) Paragraph (g) (4) does not apply in the case of any order for a Class A product required to fill an authorized production schedule identified by a CMP allotment symbol Z–1. However, in such a case, the manufacturer of the Class A product may reject the order, whether the order is rated or not, if an allotment is not made, or controlled materials furnished, in an amount required to fill the order (taking his inventory into account to the extent required by CMP Regulation 2).

METHODS OF ALLOTMENT

(h) (1) A consumer may make an allotment to his secondary consumer on such form (including Form CMP–5 set forth in Schedule II) as may be prescribed for the purpose. Allotments may be made by telegraphing the information required by the appropriate form and confirming the same with such form.

2. Every consumer shall place on each allotment made by him the CMP allotment symbol which is on the related allotment received by him, and shall indicate the quarter for which the allotment is valid, except that if the full allotment number described in subdivision (i) of paragraph (c) (6) of this regulation is on the allotment received by him, he need only place on related allotments made by him the CMP allotment symbol described in subdivision (ii) of paragraph (c) (6). If a consumer places a delivery order for which he has made an allotment by separate instrument, he shall place the appropriate number on said order, and shall indicate the quarter for which the allotment is valid.

METHOD OF CANCELLING OR REDUCING ALLOTMENTS

(i) A person who has made an allotment may cancel or reduce the same by notice in writing to the person to whom it was made. A person who has received an allotment may cancel or reduce the same by making an appropriate notation thereon and notifying the person from whom he received it. In either case, if an allotment received by a person is cancelled he must cancel all allotments which he has made, and all authorized controlled material orders which he has placed, on the basis of the allotment; and, if an allotment received by a person is reduced, he must cancel or reduce allotments which he has made, or authorized controlled material orders which he has placed, to the extent that the same exceed his allotment as reduced. If such cancellation or reduction is not practicable, he may make equivalent cancellations or reductions with respect to other allotments received by him for the same production schedule. Where such course of action is not practicable he may use or dispose of controlled materials or Class A products which he gets with an allotment in the way explained in paragraph (u) of this regulation. If at the time an authorized controlled material order is cancelled pursuant to this paragraph, the consumer would be entitled to receive the controlled material because of the provisions of paragraphs (c) (2) and (c) (4) of CMP Regulation No. 2, the allotment has been used and may not be returned, or used for another purpose, irrespective of whether the order is in fact cancelled or not.

ASSIGNMENT OF ALLOTMENTS

(j) (1) No consumer shall transfer or assign any allotment in any way unless:

(i) Delivery orders placed with him, in connection with which the allotment was made to him, have been transferred or assigned to another consumer;

(ii) The authorized production schedules of the respective consumers have been duly adjusted; and

(iii) The transfer or assignment is approved in writing by the person who made the allotment.

(2) Transfers or assignments of allotments may be made without complying with paragraph (j) (1) of this regulation in connection with the transfer or assignment of a business as a going concern where the transferee continues to operate substantially the same business in the same plant and where he uses substantially the same trade-mark or trade name. The transferee may use the allotment and ratings of the transferor but the transferee must notify the War Production Board Ref: CMP Division of the details of the transaction, giving the names of the persons involved and furnishing one extra copy of such notification for each authorized production schedule that he has received from the War Production Board.

GROUPING OF ALLOTMENTS AND SCHEDULES BY MAJOR PROGRAMS

(k) A consumer operating under several authorized production schedules may combine in a single allotment to a secondary consumer requirements for any number of different production schedules which are identified by the same CMP allotment symbol as provided in paragraph (c) (6) (ii), and he may authorize a single production schedule for the secondary consumer in connection with such allotment. If the secondary consumer has filed separate applications, and the consumer making the allotment acts on such applications separately, the secondary consumer may nevertheless treat such allotments and authorized production schedules bearing the same major program number as a single allotment and a single authorized production schedule.

CLASS A PRODUCTS TREATED AS CLASS B PRODUCTS

(k–1) (1) A distributor of Class A products who receives physical delivery thereof may, unless otherwise specifically ordered, buy and sell the same without making or receiving allotments. A manufacturer of Class A products selling them directly or indirectly to such distributors may obtain an allotment for such manufacture from the appropriate Industry Division pursuant to application on Form CMP–4B in the same manner as if they were Class B products. If physical delivery is made directly by the manufacturer to a distributor's customer, the latter (unless he is also a distributor) shall make an allotment directly to the manufacturer in the same manner and subject to the same conditions as if the distributor had no part in the transaction.

(2) A manufacturer of Class A products who sells them for use as maintenance, repair or operating supplies (except items directly purchased and programmed by a Claimant Agency) shall, unless otherwise specifically ordered, obtain allotments for such manufacture in the same manner as provided in subparagraph (1) of this paragraph (k–1) for delivery to distributors. Applications pursuant to said subparagraph (1) and this subparagraph (2) may be combined in a single application on Form CMP–4B.

(3) A manufacturer who also sells purchased Class A products to round out his line, which do not represent more than 10% of his total sales, shall be deemed the manufacturer of such products and not a distributor for purposes of this paragraph (k–1).

(4) A manufacturer of a Class A product for which application may be made under Priorities Regulation 25, may obtain his allotment pursuant to application under that Regulation to the Field Offices of the War Production Board.

(5) A Class A product for which allotments are made directly by the War Production Board under this paragraph (k–1) shall be treated in all respects as a Class B product for the purpose of this regulation.

(6) The War Production Board will generally allot controlled materials for civilian type Class A End Products made for civilian and indirect military use. Procurement Claimant Agencies will usually allot directly for their needs for such products, although allotments in some cases may be made through Industry Divisions of the WPB.

SMALL ORDER PROCEDURE

(l) This paragraph explains how orders for Class A products requiring small quantities of controlled materials may be placed without making an allotment.

Definition of Small Order

(1) A "small order" for purposes of this regulation is a delivery order for a Class A product placed with a manufacturer where the amount of any controlled material required to fill the order does not exceed the following:

Carbon steel (including wrought iron) and alloy steel	10 tons.
Copper wire mill and brass mill products	1,000 lbs.
Copper and copper base alloy foundry products	300 lbs.
Aluminum	2,000 lbs.

The small order procedure may not be used to get from all suppliers more of the same Class A product for use in the same authorized production schedule during the same calendar quarter than can be made out of the quantities of controlled materials shown above. A person may place small orders for delivery in any one calendar quarter for any number of different Class A products, provided the quantities of controlled materials for each Class A product are within these limits.

(2) A Class A product is considered different from another Class A product if it differs from the other product by reason of one or more of its specifications such as width, thickness, temper, alloy, finish, and the like. A person must not, however, vary a minor specification just for the purpose of using the small order procedure. For example, if a person is purchasing several different kinds of springs, he may treat each different type or size of spring as a separate Class A product, and orders placed for each type or size which require controlled materials for their production within the quantity limits specified in paragraph (1) above constitute small orders, but he must not vary the specifications of the springs just to be able to place small orders.

Persons Entitled to Use the Small Order Procedure

(3) Only a prime consumer who has received an authorized production schedule from a Claimant Agency or the War Production Board, or a secondary consumer who has received an authorized production schedule from a prime consumer or from another secondary consumer, can use the small order procedure to get Class A products needed as production material to fill the authorized production schedule. A Claimant Agency may use the small order procedure to purchase Class A products for its own use.

How to Place Small Orders for Class A Products

(4) A person placing a small order does not have to make an allotment and therefore does not have to show any allotment number or quarterly designation on his order. He must endorse his order with the symbol SO, the preference rating assigned his production schedule, and either the certification set out in CMP Regulation No. 7 or the one set out in CMP Regulation No. 3. Since he does not make an allotment he does not have to account for controlled materials purchased to fill the order and does not need to make any deduction from his own allotment. A person, in filing an application for allotments, need make no adjustment for controlled materials needed to make Class A products which he may buy under the small order procedure.

(5) Where a person places orders for a particular Class A product under the small order procedure believing his total requirements for the product during the quarter will be within the small order limits and later discovers that, due to circumstances he could not reasonably have foreseen, his total requirements for the product during the quarter will not be within the small order limits, he may still use the small order procedure, but must charge his allotment account with the total quantity of controlled materials needed to fill all orders for the product to be delivered in the quarter. However, if he does not have enough controlled materials in his allotment account to cover all of his orders for the product, he must not use the small order procedure to buy the additional quantity, but may apply for an allotment to make up the difference.

How to Obtain Production Materials to Fill Small Orders

(6) A manufacturer of Class A products who receives small orders may get controlled materials needed to fill them by endorsing his purchase orders for controlled materials with the allotment symbol SO and the certification set out in paragraph (s) (3) of this regulation or the certification set out in CMP Regulation No. 7. An order so endorsed is an authorized controlled material order. The manufacturer does not have to show any quarterly designation, or preference rating on the order. He must show the date or month when he needs to have the controlled material delivered to him either for the production of the product ordered under the small order procedure or to replace in inventory controlled material so used. If a manufacturer uses controlled materials from inventory in filling small orders, he may place authorized controlled material orders, endorsed with the SO symbol, calling for delivery of controlled materials after the small orders were delivered to his customer. He may use the SO symbol and extend his customers' ratings to get Class A products needed to fill small orders. A manufacturer of Class A products may, in buying controlled materials or Class A products to be used in filling small orders for his product, combine the requirements to fill all small orders received by him. Where, in combining requirements for Class A products to fill small orders, the total amount of controlled materials required for their production is greater than the amounts shown in subparagraph (1) above, he should let his supplier know that this results from combining requirements, by endorsing on his order a statement substantially as follows:

The Class A products covered by this purchase order represent the combined requirements to fill SO orders received by me.

(7) Materials other than controlled materials, and Class B products required to fill small orders may be purchased subject to the same limits as apply to an authorized production schedule, that is they may only be ordered for delivery at the time and in the quantities necessary to meet the delivery dates specified on the small orders, subject to the inventory limits set forth in Priorities Regulation No. 1. The rating applied to deliveries of Class A products covered by a small order may be used to buy Class A products, Class B products and materials other than controlled materials, needed to fill the order. The symbol SO must be endorsed together with the rating on all orders for such production materials.

(8) If a customer placing a small order makes an allotment to cover it instead of using the symbol SO, the manufacturer who receives the order may treat the order as a small order just as though it had been endorsed with the symbol SO and no allotment had been made. He must not, however, use the allotment in such a case. In other words, a manufacturer of a Class A product receiving an allotment of controlled materials which is within the small order controlled material quantity limits has the option of either using the allotment and allotment number, or the small order procedure, but not both. A manufacturer who receives a small allotment which he chooses to treat as a small order, does not have to return the allotment or keep any record of its receipt.

Production Records

(9) A manufacturer of Class A products must keep records which will show the amount of controlled materials ordered by the use of the SO symbol, and his production records must be accurate enough to show that the quantity of Class A products produced to fill small orders is reasonably related to the amount of controlled materials bought by the use of the SO symbol.

Bill of Materials Not Required

(10) A manufacturer of a Class A product does not have to furnish his customer with a bill of materials, application for allotment, or equivalent information as to the amount of controlled materials needed to fill any particular small order. He must, however, if requested, tell his customer the number of units of the Class A product ordered which he can manufacture within the limits of the quantities of controlled materials set forth in subparagraph (1) above, or he must, at the option of his customer, inform the customer that the amount of each controlled material needed to fill the order is within the permitted small order limits.

RELATIONSHIP BETWEEN ALLOTMENTS AND PRODUCTION SCHEDULES

(m) Every allotment made by a consumer must include or be accompanied by authorization of a production schedule with respect to the products to be supplied to him, and no consumer shall authorize a production schedule for a secondary consumer unless he concurrently allots the controlled materials required to fulfill the schedule; provided, however, that this paragraph shall not apply to any delivery order bearing a symbol (such as a small order bearing the symbol SO) which may be placed without making an allotment as expressly permitted by any regulation or order of the War Production Board. Also it is not necessary to make an allotment when authorizing a production schedule identified by the CMP allotment symbol Z–1.

MANNER OF AUTHORIZING PRODUCTION SCHEDULES

(n) (1) A production schedule for each prime consumer producing a Class A product shall be authorized by the appropriate Claimant Agency on such form as may be prescribed. A Claimant Agency may, in particular cases, authorize a production schedule through an Industry Division.

(2) A production schedule for each secondary consumer producing a Class A product shall be authorized by the consumer for whom such Class A product is to be produced, on such form as may be prescribed; provided, however, that the delivery date specified on a delivery order shall constitute an authorization of the minimum production schedule required to permit delivery on such date.

(3) A production schedule for each consumer producing a Class B product shall be authorized by the appropriate Industry Division (or in special cases by a Claimant Agency) on such form as may be prescribed.

(4) A consumer receiving allotments from several persons shall obtain separate authorized production schedules from each.

(5) Prior to authorizing a production schedule, a Claimant Agency, Industry Division or consumer may furnish a tentative production schedule to be used as a basis in submitting requirements, but such action shall not constitute authorization of a schedule.

(6) A consumer ordering Class A products to fill an authorized production schedule identified by the CMP allotment symbol Z-1 must authorize a production schedule in the manner described in this paragraph (n) even though no allotment is made with the schedule. In such a case, the quarterly identification described in paragraph (c) (6) (i) need not be used. Such quarterly identification must, however, be used in any case where an allotment is made for such schedule.

AUTHORIZED PRODUCTION SCHEDULES MUST BE FILLED

(o) (1) Each consumer receiving an authorized production schedule shall fulfill the same unless prevented by circumstances beyond his control, except that a manufacturer of Class B products need not produce more than required to fill orders bearing preference ratings.

(2) No consumer who has received an authorized production schedule shall exceed such schedule in any month, except that (i) unless another WPB order or regulation specifically provides otherwise, a deficiency not exceeding 10% of an authorized production schedule for a Class B product during any calendar quarter may be made up only in the following calendar quarter (if a production schedule is authorized by months, the amount authorized during each of the three months of the calendar quarter may be totalled for the purposes of this paragraph). A deficiency in meeting an authorized production schedule for Class A products during any month may be made up in any subsequent month or months, (ii) production authorized for any month may be completed at any time after the 15th of the preceding month and, (iii) where a delivery order calls for deliveries, on several dates, of Class A products in quantities which are less than the minimum practicable production quantity, and compliance with monthly production schedules would result in substantial interruption of production and consequent interference with production to fill other delivery orders, the consumer may produce (and his customer may order and receive) at one time the minimum practicable quantity which may be made without such interference. A person shall be deemed to exceed an authorized production schedule if his completion of finished products exceeds the limits authorized, or if his rate of fabricating, assembling, or otherwise processing, or acquiring raw materials or parts, exceeds the practicable working minimum required to meet the authorized production schedule.

(3) [Deleted October 4, 1943]

PROTECTION OF CLASS A PRODUCT SCHEDULES

(p) (1) No person shall accept an allotment for the manufacture of a Class A product, regardless of the accompanying preference rating, if he does not expect to be able to fulfill the related authorized production schedule, subject to unexpected contingencies and to any period of grace which may be specified by the person who offers the allotment and the authorized schedule.

(2) No person who has accepted an allotment and an authorized production schedule for a Class A product shall thereafter accept any delivery order (except an order rated AAA) for any Class A, Class B or other product manufactured by him, regardless of the accompanying preference rating or allotment number or symbol, unless he expects that, subject to unexpected contingencies, he can fill the order without interfering with the fulfillment of such previously accepted authorized production schedule.

(3) A person making Class B products to fill unrated or low rated orders must accept higher rated orders to the extent and subject to the exceptions provided in Priorities Regulation No. 1, unless he is also making a Class A product on an authorized production schedule, with which such higher rated orders would interfere contrary to the provisions of subparagraph (2) above.

(4) If a person whose allotment or delivery order is rejected pursuant to this paragraph (p) is unable to find another supplier who is in a position to accept it, he should report the facts to the appropriate Claimant Agency or Industry Division. The War Production Board (or the appropriate Claimant Agency, if only orders bearing its symbol are involved, or if all Claimant Agencies concerned have stipulated a single Claimant Agency for the purpose) may make exceptions to the provisions of this paragraph (p) where necessary to assure the filling of orders bearing high preference ratings.

(5) The provisions of Priorities Regulation No. 1 with respect to the acceptance and filling of rated orders and the sequence of deliveries shall remain applicable except as otherwise specifically provided in this regulation, CMP Regulation No. 3, or any other applicable regulation or order of the War Production Board.

RECONCILIATION OF CONFLICTING SCHEDULES

(q) In any case where, for any reason, a manufacturer of Class A or Class B products is unable to fulfill conflicting authorized production schedules which he has accepted from different persons, he shall immediately report to the appropriate Industry Division for directions, except that such report shall be made to a Claimant Agency if all conflicting schedules bear its symbol or if all Claimant Agencies whose schedules conflict have stipulated a single Claimant Agency for such purposes. (See Interpretation No. 15 to CMP Regulation No. 1.)

ALTERNATIVE PROCEDURE FOR SIMULTANEOUS ALLOTMENTS

(r) A prime or secondary consumer who has several secondary consumers in different degrees of remoteness and finds it impracticable to determine the exact allotments to be made to each of his immediate secondary consumers, for their needs and those of their secondary consumers, may, at his option, make simultaneous direct allotments to each secondary consumer, of all degrees of remoteness, by adopting the following procedure:

(1) The consumer who is to make the allotment (hereafter in this paragraph (r) called the originating consumer) shall maintain a complete list of all secondary consumers making Class A products for incorporation in his product. He shall keep this list current at all times by requiring each of his immediate secondary consumers to report promptly to him any change with respect to the source of each secondary consumer's Class A purchased products.

(2) Immediately upon receiving an allotment, the originating consumer shall notify each secondary consumer on the list (either directly or through intervening secondary consumers) of the authorized schedule for which the allotment has been made to him. Such notice shall *not* include an allotment number. It shall identify the product to be delivered by the secondary consumer to whom the notice is sent and state the quantity to be delivered and the time when delivery is required.

(3) Promptly upon receipt of such preliminary notice, each secondary consumer shall report to the originating consumer directly (not through intervening secondary consumers), the amount of each form of controlled material required by him each month in order to make the deliveries indicated. Each such secondary consumer shall include only his own requirements of controlled materials, *not* those of his secondary consumers. No form is prescribed for such statement.

(4) The originating consumer shall then determine the total requirements of all his secondary consumers under the schedule, checking the list to make certain that a preliminary statement of requirements has been received from each secondary consumer.

(5) If such summary shows that the aggregate requirements of the originating consumer and all his secondary consumers for each form of controlled material do not exceed the allotment made to him for the schedule he may then allot directly to each secondary consumer on the list the amount indicated in the preliminary statement of requirements. No form is prescribed for such allotment, and it may be made by telegram, but it must include the allotment number required by paragraph (c) (6) (ii) of this regulation and must show the quarter for which the allotment is valid, and a statement substantially as follows: "This allotment is made in accordance with the alternative procedure for simultaneous allotments provided in paragraph (r) of CMP Regulation No. 1," Such allotment shall constitute authorization of a production schedule for the secondary consumer in the amount specified in the notice sent to him pursuant to subparagraph (2) of this paragraph (r). If aggregate requirements do not exceed his allotment, the originating consumer shall be under no obligation to check the accuracy of the preliminary statements received from his secondary consumers before making allotments to them, but otherwise he and his secondary consumers shall remain subject to the provisions of paragraph (e) of this regulation regarding responsibility for statements of requirements.

(6) If the summary shows that the aggregate requirements of the originating consumer and all his secondary consumers exceed the allotment made to him with respect to any form of controlled material, the originating consumer shall not make any allotment or place any authorized controlled material order for the production schedule covered by his allotment until and unless:

(i) Requirements have been revised by himself or by one or more of his secondary consumers to the extent necessary to eliminate such excess, or

(ii) With the express permission of the appropriate Claimant Agency or Industry Division after he has reported the facts to it, he withholds an amount sufficient to cover all adjustments which must be made in the requirements of his secondary consumers in order to bring them within his allotment.

HOW TO PLACE ORDERS WITH CONTROLLED MATERIALS PRODUCERS

(s) (1) A delivery order placed with a controlled materials producer for controlled material shall be deemed an authorized controlled material order if, but only if, it complies with the provisions of this paragraph (s) or is specifically designated as an authorized controlled material order by any regulation or order of the War Production Board.

(2) A consumer who has received an allotment may place an authorized controlled material order with any controlled materials producer, unless otherwise specifically directed. An allotment to a prime consumer may include a direction to place delivery orders for controlled materials with one or more designated controlled materials producers. In such event the consumer shall use the allotment only to obtain controlled materials from the designated controlled materials producer or producers or to make allotments to secondary consumers, designating therein only producers named in the allotment received by him. Except as required by the allotment which he has received, no consumer shall impose any such restriction in any allotment made by him.

(3) Every authorized controlled material order must be identified by an endorsement including an allotment number or symbol. Unless another form of endorsement is specifically prescribed by an applicable order or regulation of the War Production Board, such endorsement shall be in substantially the following form (or in the form prescribed in CMP Regulation No. 7), signed manually or as provided in Priorities Regulation No. 7:

The undersigned certifies, subject to the criminal penalties of section 35 (A) of the U. S. Criminal Code, that he has received an allotment or allotments of controlled materials (or delivery orders not requiring allotments) authorizing him, pursuant to CMP Regulation No. 1, to place an authorized controlled material order in the amount herein indicated for delivery in the month specified, and that he is authorized to use the allotment number _____.

The allotment number included in such endorsement shall be the CMP allotment symbol prescribed by paragraph (c) (6) (ii) of this regulation. Each such order must indicate a specific delivery month in the quarter for which the allotment is valid and need not show the month number as originally prescribed. For example, if a consumer receives an allotment bearing the number W-2-3Q43 and places an authorized controlled material order calling for delivery in August, 1943, the order shall bear the number W-2-3Q43. An authorized controlled material order placed under paragraph (l) of this regulation, relating to small orders, should be endorsed in the way described in paragraph (l) (6) of this regulation.

(4) A delivery order for controlled material must be in sufficient detail to permit entry on mill schedules and must be received by the controlled materials producer at such time in advance as is specified in Schedule III attached, or at such later time as the controlled materials producer may find it practicable to accept the same, provided that no controlled materials producer shall discriminate between customers in rejecting or accepting late orders.

(5) [Deleted October 4, 1943. Obsolete.]

(6) [Deleted Sept. 17, 1943.]

(7) No person shall place an authorized controlled material order unless the amount of controlled material ordered is within the related allotment received by him, after deducting all allotments made by him and all orders for the controlled material placed by him pursuant to the same allotment, or unless he is expressly authorized to place such an order by any applicable regulation or order of the War Production Board.

RESTRICTIONS ON PLACING AUTHORIZED CONTROLLED MATERIAL ORDERS

(s-1) In no event shall a consumer request delivery of any controlled material in a greater amount or on an earlier date than required to fill his authorized production schedule, or in an amount so large or on a date so early that receipt of such amount on the requested date would result in his having an inventory of controlled materials in excess of the limitations prescribed by CMP Regulation No. 2 or by any other applicable regulation or order of the War Production Board. No consumer shall, however be required by the provisions of this paragraph (s-1) to reduce a delivery order below the minimum mill quantity specified in Schedule IV. This paragraph (s-1) does not change the restrictions of CMP Regulation No. 2 relating to the acceptance of delivery of controlled material.

CONTROLLED MATERIALS PRODUCERS

(t) This paragraph deals with the obligations of controlled materials producers under the Controlled Materials Plan.

Production Directives

(1) Each controlled materials producer shall comply with such production directives as may be issued from time to time by the War Production Board.

Acceptance and Rejection of Orders

(2) A controlled materials producer shall accept authorized controlled material orders in the order in which received by him except:

(i) He may reject orders for less than the minimum mill quantities specified in Schedule IV attached, but shall not discriminate between customers in rejecting or accepting such orders.

(ii) In any case where he is of the opinion that the filling of the order would substantially reduce his over-all production owing to the large or small size of the order, unusual specifications, or otherwise, he shall apply to the appropriate Controlled Materials Division. The War Production Board may direct that the order be placed with another supplier or take other appropriate action.

(iii) He shall refuse any order for shipment of any product in any month if such order, together with all his authorized controlled material orders already on hand for delivery during that month and any orders carried over from the preceding month, plus such amounts as he may be directed by the War Production Board to deliver or set aside for delivery to warehouses or nonintegrated mills or otherwise, total 110% of the production of such product specified in his production directive, or, if no production directive is currently in effect with respect to such product, total 105% of his expected production. As soon as such limits of 110% and 105% respectively have been reached, each controlled materials producer shall promptly notify the appropriate Controlled Materials Division in writing, unless he has received contrary instructions from the War Production Board. However, if he has accepted authorized controlled material orders identified by a CMP allotment symbol whose initial letter is Z, he must remove the "Z" order from his schedule if later authorized controlled material orders or orders specifically authorized by the War Production Board are received, to the extent required by Direction 54.

(iv) He shall reject orders to the extent required by specific direction of the War Production Board.

(3) A controlled materials producer must reject any new order for any controlled material unless he is permitted to fill it under this paragraph. A controlled materials producer shall not deliver any controlled material except to fill:

(i) An authorized controlled material order;

NOTE: Paragraph (t) (3) (ii) relating to sample orders revoked April 11, 1944. Persons desiring controlled materials for testing and experimental purposes may obtain them under the provisions of Order P-43.

(iii) An order which he is authorized or required to fill by any written direction of the War Production Board.

(iv) An order for steel which a distributor would be authorized to fill under paragraph (d) (4) of CMP Regulation No. 4, when the order is filled only from mill stock and the producer customarily sells steel from his own stock.

If a controlled materials producer takes controlled materials which he has produced and processes them into a form other than a controlled materials form, such processing shall be considered a delivery for the purposes of this paragraph (t). In addition, if a controlled materials producer takes aluminum produced by him and processes it into certain other forms of controlled material as provided in Direction 8 under this regulation, delivery for such processing (or such processing if there is actually no delivery) shall also be considered a delivery for the purposes of this paragraph (t).

Time for Delivery—Postponed Deliveries

(4) A controlled materials producer shall make delivery on each authorized controlled material order as close to the requested delivery date as is practicable in view of the need for maximum production and compliance with production schedules. He may make delivery during the 15 days prior to the requested delivery month, but not before then, provided such delivery does not interfere with delivery on authorized controlled material orders calling for shipment in such preceding month, or earlier months and provided production to meet such delivery would not violate any production directive. Special rules regarding the postponement of delivery on authorized controlled material orders identified by a CMP allotment symbol whose initial letter is "Z" are explained in Direction 54. If a producer, after accepting an order within the limits of paragraph (t) (2) (iii) finds that, due to contingencies which he could not reasonably have foreseen, he is obliged to postpone the delivery date, he must promptly advise his customer of the approximate date when delivery can be scheduled, and keep his customer advised of any changes in that date. Delivery of any such carry-over order for steel or copper must be scheduled and made in preference to any order for similar material originally scheduled for a later month. The time of production and delivery of any such carry-over order for aluminum is covered in Direction No. 23 to this regulation. When the new date for delivery on a carry-over order falls within a later quarter than that indicated on the original order, the producer must make delivery on the basis of the original order even if that order shows that the allotment was valid for a quarter earlier than the one in which delivery is actually to be made. When directed by the War Production Board, a controlled materials producer must promptly notify the appropriate Controlled Materials Division of all carry-over orders on his books, giving allotment numbers, names of customers and material covered by the carry-over orders.

Tentative Acceptance of Authorized Controlled Material Orders

(5) If a producer is unable to accept an order for the month requested because of the restrictions of paragraph (t) (2) (iii), but has open space available in either of the two following months, the producer must accept and schedule the order for delivery as early as possible in either of the two following months and must promptly notify the customer of the proposed delivery date and tell him that the order has been accepted subject to written confirmation within seven days. If the customer does not have written confirmation of the new delivery date in the producer's hands within seven days after the date on which the notice of tentative acceptance was sent, the producer must cancel the order. If the new delivery date falls within a later quarter than that shown on the original authorized controlled material order the confirmation has no effect unless it is accompanied by the customer's certification that he has an allotment valid for the new quarter in which case the customer must charge the order against that allotment. The confirmation and certification may be by letter or telegram. If made by letter, the letter must be signed by a person authorized to sign the form of certification required on authorized controlled material orders and if made by telegram a copy must be signed by such a person and held in the customer's file.

Directions by the War Production Board

(6) All directions to controlled materials producers affecting production and distribution of controlled materials shall be issued by the War Production Board.

Commercial Tolerances

(7) If the controlled material delivered pursuant to an authorized controlled material order varies from the exact amount specified in the authorized controlled material order, the making and acceptance of such delivery shall not be deemed a violation of this regulation or any other CMP Regulation by the controlled materials producer or his customer, provided such variation does not exceed the commercially recognized shipping tolerance, or allowance for excess or shortage.

Authorized Controlled Material Order Is Not an Allotment

(8) An authorized controlled material order shall not constitute an allotment of controlled material to the controlled materials producer with whom it is placed. If a controlled materials producer requires delivery of controlled materials from other controlled materials producers, to be processed by him and sold to his customers in another form or shape constituting a controlled material, such delivery may be made or accepted only pursuant to a specific direction as provided in subparagraph (3) (iii) of this paragraph (t) or pursuant to allotment as provided in CMP Regulation No. 8. Specific instructions will inform a controlled materials producer whether to apply for a direction by letter or for an allotment pursuant to CMP Regulation No. 8.

RESTRICTIONS ON USE OF ALLOTMENTS AND MATERIALS

(u) This paragraph explains the restrictions on the use of allotments and controlled materials or Class A products obtained with an allotment.

Use of Allotments

(1) A consumer must not use an allotment to buy any controlled materials or Class A products except (i) what he needs to fill the authorized production schedule for which the allotment was made or (ii) what he needs to fill any of his other authorized production schedules, within the same plant or operating unit, which bear the same Claimant Agency letter symbol, or (iii) to replace in inventory controlled materials or Class A products used to fill any of such authorized production schedules. The symbols W and O are considered the same Claimant Agency letter symbol for purposes of this paragraph. However, each of the other letter symbols are considered separate Claimant Agency letter symbols. In no case may a consumer use an allotment for any purpose which would interfere with filling the schedule for which the allotment was made. Where an allotment made for one schedule is used in filling another schedule in the same plant or operating unit and identified by the same Claimant Agency letter symbol, no charge need be made against the allotment account of the second schedule, but an appropriate record must be made, on the allotment accounts or otherwise, describing the circumstances.

Return of Allotments

(2) If a consumer's needs for a controlled material or Class A product are reduced before he has ordered or received delivery of them and he does not need to use his allotment for another one of his authorized production schedules bearing the same Claimant Agency letter symbol, or for inventory replacement, as permitted in subparagraph (1) above, he must immediately return the allotment as explained in paragraph (w). If he has already placed authorized controlled material orders or made allotments on the basis of his allotment at the time he learns of the reduction in his needs, he must cancel them. If it is too late to cancel the orders, he may receive delivery of the controlled materials and Class A products, in which case his use of them is covered by subparagraph (3) below.

Use of Materials and Products Obtained With Allotments

(3) If a consumer has received physical delivery of controlled materials or

Class A products pursuant to an allotment, he may use them for the same purposes for which he is permitted to use the allotment as provided in subparagraph (1) above. Also, if it develops after he has actually received delivery or when it is too late to prevent delivery, that he does not need them for a purpose permitted under subparagraph (1) above:

(i) He may sell them under Priorities Regulation 13, relating to sales of idle or excess stocks, or under WPB Directive 16, relating to aircraft inventory transfers.

(ii) He may use them on any other production schedule in the same plant or operating unit where the schedule is specifically authorized in terms of units or dollars.

(iii) He may use them on another production schedule in the same plant or operating unit which is identified by a CMP allotment symbol whose initial letter is the same.

(iv) He may use them on any other authorized production schedule in the same plant or operating unit which is not identified by the same claimant agency symbol and which is not authorized in terms of units or dollars. However, in this case he may use them on the other schedule only if he has an unused allotment big enough to cover the materials involved, and if he charges the allotment account with the material transferred.

(v) He may use them for any purpose for which he is entitled to buy controlled materials by use of a blanket CMP allotment symbol (such as "MRO"). However, in such a case, he must charge the amount or the value of the material against any account or quota which limits the use of the blanket symbol under the terms of the order assigning the symbol.

(vi) He may use or dispose of them as scrap but he must comply with any provisions of other WPB orders or regulations concerning use or disposition of scrap. A consumer must not use or dispose of controlled materials or Class A products which he obtained pursuant to an allotment, blanket CMP allotment symbol, or special authorization for any other purpose.

Specific Instructions

(4) If, before using or selling controlled materials or Class A products in a way permitted by this paragraph (u), the consumer receives directions from the War Production Board as to disposition or use of the same, he must comply with such directions. Also, he must comply with any directions he receives from a Claimant Agency with respect to his use of controlled materials or Class A products which he got by use of an allotment from that Claimant Agency, in any program of the same Claimant Agency, or with respect to their sale to any other person for use in a program of the same Claimant Agency, subject always to whatever rights he may have to reimbursement.

Common Inventories

(5) A consumer need not segregate inventories of controlled materials or Class A products which he gets by use of his allotments, even though different allotment numbers are used in ordering them, nor does he have to earmark them for a particular schedule. Although a consumer must charge the appropriate allotment account when placing an authorized controlled material order or making an allotment, he may keep all controlled materials and Class A products received in a common inventory and in withdrawing from inventory he does not have to charge the withdrawal against the allotment account. A consumer who is operating under several authorized production schedules need not maintain separate records of the production obtained from the allotment received for each schedule if the records which he normally keeps show that his use of material for his respective schedules is substantially proportionate to the amounts of material allotted for each and that his aggregate production of any product does not exceed the aggregate of the production schedules authorized for that product.

ADJUSTMENTS FOR PURCHASES ON OTHER THAN AUTHORIZED CONTROLLED MATERIAL ORDERS

(v) A consumer must charge his allotment account with the amount of controlled materials which he buys under Priorities Regulation 13 or Direction 48 to this regulation except in the following cases:

(1) Where he will use the material on a production schedule which is specifically authorized in terms of units or dollars;

(2) Where he buys the material under the provisions of WPB Directive 16;

(3) Where he has been authorized to buy the material without charging his allotment account pursuant to an application under paragraph (c) (2) (vi) of Priorities Regulation 13.

(4) Where he buys small amounts under paragraph (c) (2) (iv) of Priorities Regulation 13.

WHAT TO DO IF REQUIREMENTS CHANGE

(w) This paragraph explains what to do if requirements increase or decrease.

Supplementary Applications

(1) If a consumer's requirements for controlled materials or Class A products needed to fill a schedule are increased after he receives his allotment, he may apply for an additional allotment to the person who made the allotment for that schedule.

Periodic Check-up on Allotments and Return of Excess

(2) As explained in paragraph (e), if a consumer finds that he has been allotted substantially more than he needs, he must return the excess. As of the first of each month, each consumer must check up on his anticipated requirements for the quarter and determine whether he has been allotted substantially more than he anticipates he needs. If he has, he must return the excess by the tenth of the month. He need not take a physical inventory for this purpose, but must merely check up on the effect of known changes in his requirements or errors which he has discovered in his statement of requirements. As of the end of each quarter, he must determine whether he has used his entire allotment by placing authorized controlled material orders or making allotments to his secondary consumers and, if he has any excess, however small, he must return it by the tenth day after the close of the quarter.

To Whom Returns Made—Form CMP–32

(3) The return of an unneeded allotment must be made to the person from whom the allotment was received. The return of unused allotment balances to be made within ten days after the end of the quarter must be made to the Claimant Agency or Industry Division originating the allotment. Form CMP–32, available at all War Production Board offices, should be used for this purpose, but if it is impractical to get this form, the return may be made by letter. Attention is called to Direction No. 26 to CMP Regulation No. 1, which explains when allotments may be returned by a secondary consumer directly to a Claimant Agency or Industry Division rather than to the person making the allotment. The Direction also gives the addresses to which returns to Claimant Agencies or the War Production Board should be sent.

OTHER WAR PRODUCTION BOARD REGULATIONS AND ORDERS

(x) Nothing in this regulation (or any other CMP regulation) shall be construed to relieve any person from complying with any applicable priorities regulation or any order of the War Production Board (including orders in the "E", "L," "M" and "P" series). In case compliance by any person with the provisions of any such regulation or order would prevent fulfillment of an authorized production schedule, he should immediately report the matter to the appropriate Industry Division, and to the Claimant Agency whose schedule is affected. The War Production Board will thereupon take such action as is deemed appropriate, but unless and until otherwise expressly authorized or directed by the War Production Board, such person shall comply with the provisions of such regulation or order.

RECORDS AND REPORTS

(y) (1) Each consumer making or receiving any allotment of controlled materials shall maintain at his regular place of business accurate records of all allotments received, of procurement pursuant to all allotments, and of the subdivision of all allotments among his direct secondary consumers. Such records shall be kept separately by CMP allotment symbols, as provided in paragraph (c) (6) (ii) of this regulation, and shall include separate entries under each number for each customer, Claimant Agency

or Industry Division from whom allotments are received under such number.

(2) Each controlled materials producer shall report to the appropriate Controlled Materials Division, on the forms and for the periods prescribed, such information on production, consumption and distribution of controlled materials as may be prescribed by the War Production Board.

(3) Each prime or secondary consumer and each controlled materials producer shall retain for two years at his regular place of business all documents on which he relies as entitling him to make or receive an allotment or to deliver or accept delivery of controlled materials or Class A products, segregated and available for inspection by representatives of the War Production Board, or Claimant Agencies, or filed in such manner that they can be readily segregated and made available for such inspection.

APPEALS AND APPLICATIONS FOR RELIEF

(z) (1) Any person who is subject to any requirement of any regulation, direction, order or other action under the Controlled Materials Plan, may appeal for relief by filing a letter in triplicate with the appropriate authority specified below in this paragraph (z), setting forth the pertinent facts and the reasons why such person considers that he is entitled to relief.

(2) Except as provided in subparagraphs (3) and (4) of this paragraph (z) or as otherwise specifically directed, an appeal by a producer of Class A products should be filed with the appropriate Claimant Agency, and an appeal by a producer of Class B products should be filed with the appropriate Industry Division, unless the matter affects only production schedules of a single Claimant Agency or where a single Claimant Agency has been stipulated for the purpose by all Claimant Agencies whose schedules are affected, in which case the appeal should be filed with such Claimant Agency.

(3) An appeal concerning the operations of a controlled materials producer (whether filed by such producer, by a consumer, or by a Claimant Agency) should be filed with the appropriate Controlled Materials Division.

(4) A producer of Class B products may apply for permission to be treated as a producer of Class A products. A producer of Class A products making a large variety of items which are sold to many customers and whose allotments originate from several Claimant Agencies, may make application to be treated as a producer of Class B products, but such permission will not be granted with reference to component parts or subassemblies, unless the necessary adjustments in bills of materials which include such component parts or sub-assemblies can be made without difficulty. Application for reclassification should be filed with the CMP Division, War Production Board, Washington, D. C., and may be filed either directly by the producer or by a Claimant Agency on his behalf.

(5) In case of any disagreement between any persons as to the interpretation of any provisions of this regulation or any other regulation, direction, or order under the Controlled Materials Plan, the matter should be referred to the CMP Division, War Production Board, Washington 25, D. C.

PENALTIES

(aa) Any person who willfully purports to make any allotment of controlled materials or to place authorized controlled material orders in excess of the amount allotted to him, or violates any other provision of this regulation, or any other regulation, direction or order under the Controlled Materials Plan, or who knowingly or willfully makes any false or fraudulent statement or representation with respect to requirements for controlled materials or in any other matter under the jurisdiction of any agency of the United States under the Controlled Materials Plan, is guilty of a crime and, upon conviction, may be punished by a fine up to $10,000 or by imprisonment or both. In addition, any such person may be prohibited from making or obtaining further deliveries or allotments of controlled material or from making or obtaining any further deliveries of or from processing or using, any material under priorities control, and may be deprived of priorities assistance.

Issued this 25th day of January 1945.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

SCHEDULE I

STEEL

Carbon steel (including wrought iron)

CMP Code No.	Materials	Code also includes	Code does not include
2001	Bars, cold finished		
2005	Bars, hot rolled or forged	Concrete reinforcing bars and rolled fence posts. Angles, channels, T's and Z's under 3" maximum.	Bars forged by a nonproducer, except when sold by a distributor. After March 31, 1944, tool steel, irrespective of grinding, when cut to length and heat-treated for use as tool bits.
2011	Ingots, billets, blooms, slabs, die blocks, tube rounds, sheet and tin bar, and skelp.		
2016	Pipe, including threaded couplings of the type normally supplied on threaded pipe by pipe mills.	Galvanized. Line, oil country goods and water well tubular products. Bedstead tubing.	
2021	Plates		
2026	Rail and track accessories	Rail, rail joints, track spikes, tie plates, and track bolts.	Gage rods, mine ties, clip bolts, rail clips and nut locks. Frogs, crossings, switches, switch stands, rail anchors, rail braces, guard rails and guard rail clamps.
2031	Sheet and strip	Hot and cold rolled (includes coated products and copper clad including hoops.	Steel roofing sheets coated with bitumen, asphalt or asbestos.
2036	Steel castings	Cast steel magnets (whether magnetized or unmagnetized).	
2041	Structural shapes and piling	Steel sheet piling and bearing piles.	
2046	Tin plate, terne plate and tin mill black plate.	When coated or lithographed by a steel producer.	When coated or lithographed by other than a steel producer.
2051	Tubing	Mechanical, pressure, and brazed	
2056	Wheels, tires and axles		Resilient wheels. (After December 31, 1943, resilient wheels will be handled as a Class B product.)
2061	Wire rods, wire and wire products.	Drawn wire, barbed and twisted wire, woven wire fence fabric, wire nails, cut nails, lead-headed nails, horse shoe nails, foundry nails, wire rope, welded steel wire reinforcing mesh; fence post fasteners; wire bale ties; wire netting; coated wire (when coated by producers).	Wire tacks, wire shoe nails, cut nails made from tack plate; wire rope when fabricated into slings (including splicing loops and endless splicing) or when attachments are made (including slings with fittings such as sockets, rings, shackles, thimbles, etc.). Welded wire reforcing mesh with waterproof paper back. Coated and uncoated welding rods and welding wire. Gates. Chain link fence fabric and chain link fence, completely fabricated. Boat spikes, dock spikes and wharf spikes.

Alloy Steel (including stainless)
(See note at foot of Alloy Steel List)

2501	Bars, cold finished		
2505	Bars, hot rolled		
2511	Ingots, billets, blooms, slabs, die blocks, tube rounds, sheet bar.		
2516	Pipe and couplings for threaded pipe.		
2521	Plates, all plates (including rolled armored plate in the form and shape to which it is rolled by the steel mill and prior to any subsequent fabrication) and including nickel clad and stainless clad.		
2526	Track accessories		
2531	Sheet and strip	Stainless clad	
2536	Steel castings		
2541	Structural shapes		
2551	Tubing		
2556	Wheels, tires and axles		
2561	Wire rods, wire, and wire products.		

NOTE: Alloy Steel Codes also include and exclude the items shown under the headings "Code Also Includes" and "Code Does Not Include" shown opposite comparable Carbon Steel Codes.

SCHEDULE I—Continued

COPPER AND COPPER-BASE ALLOY PRODUCTS

Brass Mill Products (Copper-Base Alloy)

Alloy Sheet, Strip and Plate

CMP Code No.	Materials	Code also includes	Code does not include
3011	Alloy sheet, strip and plate	Strip equivalent of ammunition cups and discs.	
	Alloy Rods, Bars and Wire, Including Extruded Shapes		
3021	Alloy rods, bars and wire	Extruded shapes and rod equivalent of ammunition slugs.	
	Alloy Seamless Tube and Pipe		
3041	Alloy seamless tube and pipe	Tube equivalent of rotating bands	Wrought seam tube.
	Brass Mill Products (Unalloyed Copper)		
3051	Plate, sheet and strip		Wire bars and ingot bars, rod and wire for electrical conduction.
3061	Rods, bars and wire	Extruded shapes	
3071	Tube and pipe	Tube equivalent of rotating bands	
	Wire Mill Products (Copper and Copper-base Alloy)		
3101	Wire and cable	Bare, insulated, armored and copper-clad steel.	
	Foundry Products (Copper and Copper-base Alloy)		
3201	Castings (before machining)		Machined castings, pressed metal shapes (an unclassified product).

ALUMINUM PRODUCTS

Rod, Bar, Wire and Cable

4021	Rod and bar $\frac{3}{8}$"–$\frac{3}{4}$"		
4031	Rod and bar over $\frac{3}{4}$"–$1\frac{5}{8}$"		
4041	Rod and bar over $1\frac{5}{8}$"–3"		
4051	Rod and bar over 3"		
4121	Wire (under $\frac{3}{8}$")		
4151	Cable (electrical transmission only).		
	Rivets		
4122	Rivets		
	Forgings, pressings, and impact extrusions		
4171	Forgings and pressings (before machining).		Hooker tubing and collapsible tubes.
4701	Impact extrusions		

SCHEDULE I—Continued

ALUMINUM PRODUCTS—continued

Castings before machining

CMP Code No.	Materials	Code also includes	Code does not include
4202	Cylinder head for air-cooled engines.		Cylinder head castings for air-cooled engines.
4203	Other heat-treated sand		
4204	Non-heat-treated sand		
4205	Heat-treated permanent mold		
4206	Non-heat-treated permanent mold.		
4207	Cold-Chamber Die		
4208	Gooseneck Die		
4209	Other than listed above, such as centrifugal, plaster, etc.		
	Shapes, Rolled or Extruded		
4251	Rolled structural shapes (angles, channels, zees, tees, etc.)		
4301	Extruded Shapes, 2S, 3S, 53S and 61S Alloys.		
4311	Extruded Shapes, all alloys other than 2S, 3S, 53S and 61S.		
	Sheet, Strip, Plate and Foil		
4351	Sheet, strip and plate, 2S and 3S alloys.		
4361	Sheet, strip and plate, all alloys other than 2S and 3S.		
4371	Slugs		
4601	Foil		
	Tubing		
4401	Tubing, 2S and 3S alloys		
4411	Tubing, all alloys other than 2S and 3S.		
	Tube Blooms		
4421	Tube Blooms, 2S and 3S alloys.		
4431	Tube Blooms, all alloys other than 2S and 3S.		
	Ingot and Powder		
4501	Powder (including atomized, granular, flake, paste, and pigment).		
4801	Ingot, pig, billets, slabs, etc.		

NOTE: Steel, copper and copper base alloys, and aluminum, in any of the above forms and shapes constitute controlled materials, but allotments of steel, copper and copper base alloy products are made in the terms shown in italics without further breakdown. Allotments of aluminum are made in terms of "aluminum" without further breakdown.

SCHEDULE II—SHORT FORM OF ALLOTMENT

Allotment number	Controlled Material Products allotted		

Above allotments are made for use in filling this delivery order in compliance with CMP Regulation No. 1.

INSTRUCTIONS FOR USE OF SHORT FORM OF ALLOTMENT—FORM CMP-5

The above short form of allotment may be used by any consumer for the purpose of making an allotment to a secondary consumer producing Class A products for him. The short form of allotment must be either placed on or physically attached to the delivery order calling for delivery of the Class A products. If it is attached the delivery order number or other identification must be indicated on the form.

The form must be followed by the signature of an authorized official of the consumer making the allotment, but need not be separately signed if it is placed on the delivery order in such a position that the signature of the delivery order by such an authorized official clearly applies to the allotment as well as to the order itself.

The size of the form may be varied, but all information called for by the form must be supplied and the general arrangement and wording of the form must be followed.

Under the heading "Controlled Material Products Allotted" the person making the allotment must designate the forms which are allotted. These must be shown in the breakdown prescribed in Schedule I of CMP Regulation No. 1, and must be within the allotments received by such consumer for the same forms. Additional columns may be added depending on the number of forms of controlled material allotted. A sample form follows:

Allotment number	Controlled Material Products allotted			
	Carbon steel	Copper base alloy seamless tube and pipe	Copper sheets and strip	Aluminum castings
N-1-3Q43-----	*Tons* 100	*Lbs.* 10,000	*Lbs.* 8,000	*Lbs.* 100

Above allotments are made for use in filling this delivery order in compliance with CMP Regulation No. 1.

SCHEDULE III—TIME FOR PLACING AUTHORIZED CONTROLLED MATERIAL ORDERS

STEEL—CARBON AND ALLOY (INCLUDING STAINLESS)

Product	*Number of days in advance of first day of month in which shipment is required*
Tool steel:	
Hot rolled product	60
Cold finished products	90
Cold finished bars:	
Standard sizes, grades and sections	70
Furnace treated at hot mills or special sections, odd sizes or special grades	100
Plates and shapes:	
Plates	30
Shapes	30
Pipe (carbon)	30

SCHEDULE III—TIME FOR PLACING AUTHORIZED CONTROLLED MATERIAL ORDERS—Continued

STEEL—CARBON AND ALLOY (INCLUDING STAINLESS)—continued

Product	*Number of days in advance of first day of month in which shipment is required*
Sheet and strip:	
Sheet—hot rolled—16-gauge and heavier	30
Sheet—hot rolled—17-gauge and lighter	45
Sheet—cold rolled—galvanized—long terne	45
Sheet (alloy)—hot and cold rolled of special long-processed specification	60
Strip (low carbon) hot rolled	30
Strip (low carbon) cold rolled	45
Strip (alloy) hot and cold rolled (including electrical grade)	60
High carbon cold rolled strip (over .25 carbon) and other long processed special carbon hot rolled and cold rolled sheets and hot and cold rolled strip (including electrical grade)	60
Hot rolled bars and semi-finished:	
Except for bars heat treated and annealed	30
Bars heat treated and annealed	60
Tin mill products (carbon)	30
Tubing:	
Seamless tubing (carbon):	
Hot rolled	60
Cold drawn:	
1½" O. D. and larger	75
Under 1½" O. D	105
Seamless tubing (alloy, exclusive of airframe and engine tubing):	
Hot rolled	90
Cold drawn:	
1½" O. D. and larger	110
Under 1½" O. D	120
Airframe and engine tubing	120
Welded tubing (carbon):	
Mechanical:	
Hot rolled	60
Cold rolled	70
Annealed:	
Hot rolled	70
Cold rolled	80
Drawn or swaged	85
Boiler tubes	60
Condenser and heat exchanger:	
1" O. D. and under	75
Over 1" O. D	60
Welded tubing (alloy, including aircraft)	90
Steel castings (provided patterns are available): [1]	
Weight per casting:	
500 pounds and under	45
Over 500 pounds to 5,000 pounds	60
Over 5,000 pounds to 30,000 pounds	60
Over 30,000 pounds	60
Wire and wire products (carbon):	
Hot rolled wire rods	30
Merchant trade products	30
Manufacturing wires:	
Low carbon .0475" and heavier	30
Low carbon under .0475"	45
High carbon (0.40 carbon and higher):	
.0475" and heavier	30
Under .0475" to .021"	45
Under .021"	60
Wire rope and strand:	
5/8" diameter and over	75
9/16" diameter and under	105
Welded wire-reinforcing fabric	30
Axles, forged	60
Wrought Steel Wheels	60

[1] Patterns are to be considered "available" only after they have been received at the foundry, checked, rigged for production, and sample castings have been approved.

SCHEDULE III—TIME FOR PLACING AUTHORIZED CONTROLLED MATERIAL ORDERS—Continued

COPPER

Product	*Number of days in advance of first day of month in which shipment is required*
Brass mill copper and copper base alloy products:	
Copper and non-refractory alloys	45
Refractory alloys	60
Wire and cable products:	
Bare wire and cable	35
Weatherproof wire and cable	35
Magnet wire	35
Rubber insulated building wire	35
Paper and lead cable	40
Varnished cambric cable	35
Asbestos cable (type H-F)	60
Rubber insulated wire and cable (mold or lead cured)	45
Foundry copper and copper base alloy products:	
Castings (rough castings, not machined—assuming patterns are available):	
Small simple castings to fit 12" by 16" flask	7
Large intricate and centrifugal castings	14

ALUMINUM

All forms and shapes	45

Where no time is specified in Schedule III for placing orders for a particular form or shape of controlled material, the time for placing such orders shall be subject to agreement between the consumer and the controlled materials producer: *Provided*, That no producer shall discriminate between consumers in the acceptance of orders. In the event of any disagreement, the matter should be referred to the appropriate Controlled Materials Division.

SCHEDULE IV—MINIMUM MILL QUANTITIES

STEEL

Product	*Minimum mill quantity for each size and grade of any item for shipment at any one time to any one destination*
Alloy steel (other than stainless):	
Standard grades and sections:	
Rounds, squares 3" and under	5 net tons
Hexagon and flats—all sizes	5 net tons
Stainless steel:	
Standard grades and sections	Product of one ingot.
Tool steel	500 pounds.
Castings as established by each foundry, but in no case in excess of	5 net tons.
Cold finished bars	3 net tons.
Hot rolled carbon bars and semi-finished:	
Round bars up to 3" incl., and squares, hexagons, half rounds, ovals, half ovals, etc., of approximate equivalent sectional area	5 net tons.
Round bars over 3" to 8" (including squares within this range)	15 net tons.
Flat bars, all sizes	5 net tons.
Bar size shapes (angles, tees, channels and zees under 3")	5 net tons.
Forging billets, blooms and slabs	Product of one ingot.
Rerolling billets, slabs, sheet	25 gross tons.
Plates:	

SCHEDULE IV—MINIMUM MILL QUANTITIES—Continued

STEEL—continued

Product	*Minimum mill quantity for each size and grade of any item for shipment at any one time to any one destination*
Plates and shapes:	
Continuous strip mill production	10 net tons.
Sheared mill, universal mill or bar mill production	3 net tons.
Structural shapes	5 net tons.
Pipes	(1)
Sheet and strip:	
Sheets—hot and cold rolled	5 net tons.
Strip—hot and cold rolled	3 net tons.
Tin mill products (one gauge)	5,000 pounds.
Track accessories:	
Track spikes, track bolts	5 net tons.
Tubing:	
Seamless tubing	
Carbon steel	
Cold drawn	
O. D. (inches)	
Up to ¾" inclusive	1000 feet
Over ¾" to 1½" inclusive	800 feet
Over 1½" to 3" inclusive	600 feet
Over 3" to 6" inclusive	400 feet
Over 6"	250 feet
Alloy steel	
Aircraft tubing	
O. D. (inches)	
Up to ¾" inclusive	1000 feet
Over ¾" to 1½" inclusive	800 feet
Over 1½" to 3" inclusive	600 feet
Over 3"	250 feet
Welded tubing	
Carbon steel, all sizes	3 net tons
Alloy steel, all sizes	5 net tons
Stainless steel, all sizes	3 net tons
Wire and wire products:	
Hot rolled wire rods	5 net tons.
Merchant trade products (Assorted Merchant Products)	5 net tons.
Manufacturing wires (wires for further fabrication):	
Low carbon	1 net ton.
High carbon (0.40 carbon and higher) .0475" and heavier	1 net ton.
Under .0475" to .021"	1,000 pounds.
Under .021"	500 pounds.
Wire rope and strand	1,000 ft. lengths.
Welded wire reinforcing fabric	(2)

COPPER

Prass mill products	200 pounds.
Wire mill products	300 pounds.

ALUMINUM

Sheet and strip	2,000 pounds.
Tubing	250 pounds.
Extrusions other than extruded shapes (Extruded shapes are covered by Direction 33 to this regulation)	200 pounds.
Wire, rod and bar	200 pounds.
Rivets	50 pounds.

[1] Published carload minimum (mixed sizes and grades).

[2] Full rolls of manufacturer's standard stock sizes.

LIST OF INTERPRETATIONS 1 THROUGH 25 TO CMP REGULATION NO. 1

1. Discrimination.
2. Prohibition Against Duplicating Orders.
3. Controlled Materials for Use in Metal Guns, Wire Stitchers, etc.
4. "Same Class A Product" as Used in Paragraph (1) (2)—Deleted October 4, 1943.
5. Conversion of Orders not Retroactive—Deleted October 4, 1943.
6. Allotments not Required in Ordering Class A Products in Certain Cases—Deleted February 2, 1944.
7. Class A Repair Parts.
8. Period During Which Allotment Valid—Revised February 2, 1944.
9. Allotments for Minimum Production Quantities.
10. Substitution of Allotment Numbers—Revised January 10, 1944.
11. Use of Allotments to Replenish Inventory.
12. Reduction of Quantity Ordered Does Not Constitute Placing of New Order—Revoked January 10, 1944—See Interpretation 10.
13. Allotment Procedure Determines Classification of Product in Certain Cases.
14. Use of Quarterly Identification.
15. Conflict in Production Schedules of Class A Civilian Type End Products.
16. Furnishing Materials to Subcontractors.
17. Copper Flake Powder—Deleted February 2, 1944.
18. Analysis of Orders by Claimant Agency Symbols—Section A of Form CMP-4B.
19. Proper Allotment Number Must be Used in Identifying Orders.
20. Procuring Claimant Agencies.
21. Temporary Loans.
22. Rejection of Orders.
23. Definition of Steel.
24. Records of Exporters.
25. Allotment Symbols that do not Require Quarterly Identification.

INTERPRETATION 1—DISCRIMINATION

Questions have arisen as to what constitutes discrimination between customers within the meaning of paragraphs (s) (4) and (t) (2) (i) of CMP Regulation No. 1. These provisions prohibit producers of controlled materials from discriminating between customers in rejecting or accepting orders which are filed later than the prescribed time or which call for deliveries of less than the minimum mill quantities. These provisions mean that, in similar situations, different customers must receive similar treatment. A controlled materials producer who has rejected a late order or small order from one customer, is not prohibited from accepting such an order from another customer if the difference in treatment of the two orders is based in good faith on differences in the practicability of filling the orders in view of the nature of the material ordered, the condition of the production schedule at the time the orders are received, or similar factors. (Issued March 8, 1943.)

INTERPRETATION 2—PROHIBITION AGAINST DUPLICATING ORDERS

The question has been raised as to whether a consumer may place authorized controlled material orders or make allotments exceeding in the aggregate the total amount of his allotment if he intends to cancel the excess before delivery.

Under CMP Regulation No. 1 a consumer is prohibited from duplicating authorized controlled material orders or allotments even though he intends to cancel or reduce his delivery orders to the allotted amount prior to delivery. (Issued March 22, 1943.)

INTERPRETATION 3—CONTROLLED MATERIALS FOR USE IN METAL GUNS, WIRE STITCHERS, ETC.

A manufacturer of equipment who also sells controlled materials merely for use in the operation of such equipment may include such controlled materials in his application for allotment as manufacturer of the equipment, but such requirements must be separately indicated. For example, a manufacturer of a metal gun or a wire stitcher who sells rod or wire for use with his product (whether he makes such sales with the product or separately) may include his requirements for such rod or wire in his application for controlled materials needed to manufacture the gun or stitcher, but he should indicate separately on his application or in an attached note the amount of controlled material required for such purposes as distinct from the manufacture of the gun or stitcher. (Issued April 5, 1943.)

INTERPRETATION 4—"SAME CLASS A PRODUCT" AS USED IN PARAGRAPH (1) (2)

NOTE: Deleted October 4, 1943. Now covered by (1) (2).

INTERPRETATION 5 AS AMENDED—CONVERSION OF ORDERS NOT RETROACTIVE

NOTE: Deleted Oct. 4, 1943. See Interpretation 22—Rejection of Orders.

INTERPRETATION 6 AS AMENDED—ALLOTMENTS NOT REQUIRED IN ORDERING CLASS A PRODUCTS IN CERTAIN CASES

NOTE: Deleted Feb. 2, 1944. Obsolete.

INTERPRETATION 7—CLASS A REPAIR PARTS

(a) A manufacturer of Class A products who sells them for use as maintenance, repair or operating supplies is required to obtain an allotment for their manufacture from the appropriate Industry Division pursuant to application on Form CMP-4B, except where they are directly purchased and programmed by a Claimant Agency—(paragraphs (d) (6) and (k-1) (2) of CMP Regulation No. 1). Such items, with the exception noted, are handled exactly as though they were Class B products. A manufacturer is therefore prohibited by paragraph (g) (3) of CMP Regulation No. 1 from accepting an allotment from his customer, and his customer is prohibited by the same paragraph from making an allotment, for their manufacture. A variation from this rule is indicated in paragraph (b) of this interpretation.

(b) In some cases manufacturers buy class A parts such as springs, screw machine parts and stampings, for incorporation in their products and also resell some of the parts as repair parts. In such cases, if it is impracticable for the manufacturer of the part to segregate those sold for resale as repair parts from those sold for production, he should secure an allotment from his customer covering his requirements for the manufacture of both. For example, a manufacturer of electric motors (a Class B product) purchases screw machine parts (a Class A product) from another manufacturer. He uses some of the screw machine parts for building motors and resells others as repair parts. He normally orders the screw machine parts without distinction as between those which he needs for production or for resale. The motor manufacturer should make an allotment to the manufacturer of the screw machine parts to cover all the parts purchased from him. (Issued May 20, 1943.)

INTERPRETATION 8

PERIOD DURING WHICH ALLOTMENT VALID (REVISED)

(a) An allotment of controlled materials under the Controlled Materials Plan is only valid for the quarter (or other specifically designated period) for which it is made as indicated in the allotment certificate. An allotment which is valid for one quarter cannot be used for placing authorized controlled material orders calling for delivery in any other quarter.

(b) A consumer in placing an order for a controlled material must specify the month in which delivery is requested and the requested delivery month must be within the quarter for which the allotment is valid. Controlled materials producers are required to make delivery as close to the requested delivery date as is practicable and are prohibited from accepting authorized controlled mate-

rial orders in excess of a specified percentage of their production directive or expected production as provided in paragraph (t) (2) (iii) of CMF Regulation No. 1.

(c) If a controlled materials producer is unable to accept an authorized controlled material order for delivery during the delivery month specified, and delivery is required in that month, the consumer may appeal, either directly or through his Claimant Agency or Industry Division, to the appropriate Controlled Materials Division for relief.

(d) The rules governing postponed deliveries of steel or copper are set out in paragraph (t) (4) of the regulation and those governing postponed deliveries of aluminum are covered in Direction No. 23 to the regulation. Rules governing the tentative acceptance of authorized controlled material orders are set out in paragraph (t) (3) of the regulation. The rules on these subjects as stated in paragraphs (c), (e) and (f) of the interpretation before this revision are obsolete. [Issued Feb. 2, 1944.]

INTERPRETATION 9—ALLOTMENTS FOR MINIMUM PRODUCTION QUANTITIES

(a) Paragraph (o) (2) (iii) of CMP Regulation No. 1 permits a manufacturer to exceed his authorized production schedule "where a delivery order calls for delivery, in successive months, of Class A products in quantities which are less than the minimum practicable production quantity, and compliance with monthly production schedules would result in substantial interruption of production and consequent interference with production to fill other delivery orders." In such a case the manufacturer may "produce (and his customer may order) in the first month, the minimum practicable quantity which may be made without such interference."

(b) A manufacturer is entitled to apply for (and his customer is entitled to make) an allotment during a single quarter of the quantity of controlled materials required to produce a minimum practicable production quantity even though the customer's requirements for the finished product may run over several quarters.

In illustration of the above a customer's requirements of screw machine parts for the third and fourth quarters of 1943 constitutes a minimum practicable production quantity. The manufacturer of the screw machine parts may apply for an allotment for the third quarter of 1943 of all of the controlled materials required to produce the parts. The customer should include the quantity in his application for an allotment and if an allotment is made to him, he should make a third quarter allotment to the screw machine manufacturer for the entire quantity, and should charge the total quantity so allotted to his third quarter allotment account. (Issued June 11, 1943.)

INTERPRETATION 10—CHANGES MADE BY CUSTOMERS IN ORDERS PLACED WITH PRODUCERS

(a) This interpretation deals with the procedure to be followed when a customer, having placed an authorized controlled material order with a producer, wishes to make changes in that order.

(b) The general rule is that any change in a customer's order constitutes a cancellation of the earlier order and must be considered as a new order received on the date of the change, if (but only if) the change necessitates alteration of the producers' production schedule to a point which would interfere with production. For example:

(1) The mere substitution of one allotment number for another which does not require alteration of the producer's schedule is not considered to constitute the placing of a new order. The customer must, of course, have an allotment identified by the substituted allotment number to support the change.

(2) A change in shipping destination does not constitute the placing of a new order.

(3) An increase in the total amount ordered constitutes the placing of a new order to the extent of the increase.

(4) An advancement or deferment of delivery, when made by the customer, will constitute entry of a new order.

(5) A reduction in the total amount ordered will presumably not require a change in the producer's schedule and will not constitute a new order. Of course, if the quantity is reduced below a minimum mill quantity, the producer may reject the order and remove it from his schedule, as provided in paragraph (t) (2) (i) of CMP Regulation No. 1, though he must not discriminate between customers in so doing.

(6) When the customer directs the producer to hold or suspend production on an order, without specifying a new delivery date, the order will not be considered as on a producer's books for the purpose of determining his obligation to accept other orders. When the customer instructs the producer to reinstate a suspended order, it shall be considered a new order as of the date of such instruction.

(7) Where minor variations in size, shape, gauge, etc., are requested by the customer and can be arranged by the producer without interfering with his production, such changes do not constitute a new order.

(c) In the case of changes which constitute a new order under this interpretation, the acceptance or rejection of the new order and its place on the producer's schedule shall be governed by conditions existing at the time the changes are received.

(d) This interpretation, as amended, supersedes Interpretation 12 of CMP Regulation No. 1 and CMPL letter 414, which are hereby revoked. (Issued Jan. 10, 1944.)

INTERPRETATION 11—USE OF ALLOTMENTS TO REPLENISH INVENTORY

(a) An allotment may be used to replace in inventory controlled materials used to manufacture the product for which the allotment was made. This is specifically covered in paragraph (u) (1) (iii) of CMP Regulation No. 1 [§ 3175.1]. It is not necessary for a manufacturer to delay production until he receives delivery of controlled materials ordered on the basis of the allotment.

(b) A manufacturer of Class A products need not accept an order unless he receives an allotment of enough controlled materials for its manufacture even though he has enough in inventory to fill the order. However, if his inventory is excessive (more than a practicable working minimum or the limit specified in CMP Regulation No. 2) he must fill the order out of the excess. This follows from the fact that he must take inventories into account in applying for an allotment. (However, see Direction 27—Right To Specify Allotment Quarter).

(c) It is not necessary that the quarter for which an allotment is made and the quarter in which delivery of the Class A product is to be made be the same. The allotment may be for an earlier or a later quarter depending on when the manufacturer needs the allotment.

In illustration of the above, the X Company receives an order on July 1, 1943, calling for delivery of 100 transmission assemblies on September 1, 1943. Ten tons of carbon steel and two tons of alloy steel are required to fill the order. The X Company has a sufficient quantity of steel on hand to fill the order but it is, nevertheless, entitled to an allotment of ten tons of carbon steel and two tons of alloy steel from its customer, assuming its inventory is not more than a practicable working minimum or the limit specified in CMP Regulation No. 2. The X Company may fill the order from stock on hand and obtain a fourth quarter allotment which it may use to replenish its inventory. If, in the above case, the X Company did not have controlled materials on hand to fill the order it would not be able to accept the order for delivery on September 1, 1943. If the date for delivery of the Class A products were changed to February 1, 1944, the allotment quarter would precede the quarter in which delivery of the product would be made. (Issued July 14, 1943.)

INTERPRETATION 12—REDUCTION OF QUANTITY ORDERED DOES NOT CONSTITUTE PLACING OF NEW ORDER

NOTE: Deleted Jan. 10, 1944. See Interp. 10.

INTERPRETATION 13—ALLOTMENT PROCEDURE DETERMINES CLASSIFICATION OF PRODUCT IN CERTAIN CASES

(a) When the B product allotment procedure is followed in making allotments for the manufacture of a Class A product, all of the provisions of CMP regulations governing B products apply. A good example of this is Class A repair parts which are handled on the B product basis. Under paragraph (p) of CMP-1 (§ 3175.1), an order for a Class A product, once accepted, cannot be displaced by an order received at a later time even though the later order bears a higher preference rating. However, if the product is a Class A repair part which is handled on a Class B basis, this provision does not apply. Paragraph (g) (3) provides that no consumer may make an allotment for the production of Class B products. In the case of a Class A repair part which is handled on a Class B basis, this provision does apply.

(b) On the other hand, when the A product allotment procedure is followed for making allotments for the manufacture of a Class B product, all of the provisions of CMP regulations governing A products apply. In such a case, the provision of paragraph (p) mentioned above does apply, and the provision of paragraph (g) (3) does not apply. (Issued Aug. 16, 1943.)

INTERPRETATION 14—USE OF QUARTERLY IDENTIFICATION

(a) It is not necessary to show the quarterly identification in rating orders for B components or other production materials, other than controlled materials. For example, "Preference rating AA-1, Allotment number W-1" is sufficient. Where an A product is ordered requiring an allotment, the quarterly identification must, of course, be shown.

(b) The quarterly identification, showing the quarter for which an allotment is valid, must be shown on all authorized controlled material orders, except as described in paragraph (c) below, and on all allotments, immediately following the abbreviated allotment number—for example, W-1-3Q43. The abbreviated allotment number is the same thing as the major program number, that is, the Claimant Agency symbol followed by the first digit of the program number. In the case of an allotment to a prime consumer designated W-1234-567, the abbreviated allotment number is W-1. The quarterly identification is not a part of the allotment number.

(c) It is not necessary to show any quarterly identification on orders for controlled materials where they are being bought under a blanket symbol (such as the MRO symbol assigned by CMP Regulation No. 5) where the use of the symbol is not limited to any particular quarter. This is also true in the case of orders bearing the SO symbol. (Issued Aug. 23, 1943.)

INTERPRETATION 15—CONFLICT IN PRODUCTION SCHEDULES OF CLASS A CIVILIAN TYPE END PRODUCTS

(a) Paragraph (q) of CMP Regulation No 1 provides that where a manufacturer discovers a conflict between accepted production schedules received from different persons, he should report the matter to the appropriate Industry Division (or Claimant Agency under certain circumstances) for instructions.

(b) Under the provisions of this paragraph, a manufacturer of a Class A Civilian

Type End Product who has received allotments and an authorized production schedule from various Claimant Agencies and from an Industry Division of the War Production Board, and who discovers, because of labor shortage, lack of capacity, delays in delivery of material, or other causes, that he is unable to meet all authorized production schedules, should report the details of this conflict to the appropriate Industry Division so it can furnish directions. (Issued Aug. 28, 1943.)

INTERPRETATION 16—FURNISHING MATERIALS TO SUBCONTRACTORS

(a) Instead of making an allotment of controlled material to a manufacturer of Class A products, a manufacturer operating under the Controlled Materials Plan may use any of the following alternatives with the consent of his supplier:

(1) He may sell the material to his supplier from his own inventory.

(2) He may furnish the material to his supplier on toll or processing agreement, retaining title in himself.

(3) He may place an authorized controlled material order for delivery to himself and trans-ship the material to his supplier, either by sale or under toll or processing agreement.

(4) He may place an authorized controlled material order for delivery direct to the supplier.

(b) In each of the above cases, the customer does not make any allotment, and the supplier does not have to keep any allotment records. The supplier must, however, keep sufficiently accurate records to show that he is using the material for the purpose for which it was received. The customer furnishing the material includes it in his own requirements in the same way as if he were going to allot it, and he may not furnish it to his supplier except under conditions where he could make an allotment under CMP Regulation No. 1.

(c) The making of allotments by customers to suppliers of Class B products is forbidden by paragraph (g) of CMP Regulation 1, since these allotments are made directly to the Class B producers by the War Production Board and duplicating allotments would make inaccurate the Board's figures as to requirements and supply. For the same reason, a customer may not furnish any controlled material to the producer of a Class B products in any of the ways mentioned in paragraph (a) above without getting special permission from the War Production Board. (Issued Sept. 11, 1943.)

INTERPRETATION 17—COPPER FLAKE POWDER

NOTE: Deleted Feb. 2, 1944. Obsolete.

INTERPRETATION 18—ANALYSIS OF ORDERS BY CLAIMANT AGENCY SYMBOLS—SECTION A OF FORM CMP-4B

(a) A person applying for an allotment on Form CMP-4B is required to show in Section A of the form an analysis of his orders or shipments by Claimant Agency symbols. The applicant must analyze his orders on the basis of the Claimant Agency symbols appearing on his customers' orders. Where no Claimant Agency symbol appears on a customer's order, the order must be reported under "unidentified".

(b) An applicant must not, in any case, attempt to trace the ultimate end-use of his product for the purpose of filling out Section A of Form CMP-4B. For example, if he receives an order with a preference rating bearing the symbol "B-1", he should report this under the symbol "B" even if he knows that that particular order is for a component of a product that eventually will be sold to the Navy. Or, if he receives an order with a preference rating but no Claimant Agency symbol, he should report this under "unidentified", even if he knows that that particular order is for a component of a product that eventually will be sold to the Navy.

(c) A person who receives a rated order must accept and fill it in accordance with Priorities Regulation No. 1 whether it is identified by a Claimant Agency symbol or not. He does not have the right to assume that his customer is required to show a symbol on his order since in many cases it is not necessary to show a Claimant Agency symbol in applying or extending a rating. There is no reason, however, why a person should not inform his customers of the provisions of paragraph (f) of CMP Regulation No. 3 (see Interpretation No. 3 to CMP Regulation No. 3) and paragraph (z) of CMP Regulation No. 6 which require the compulsory use of Claimant Agency symbols for purposes of identification on certain rated orders. (Issued Sept. 14, 1943.)

INTERPRETATION 19—PROPER ALLOTMENT NUMBER MUST BE USED IN IDENTIFYING ORDERS

(a) A manufacturer of a Class B product, in ordering production materials (whether controlled materials, Class A or B products, or other materials and products) needed to make the Class B product, must not use the allotment number appearing on orders placed with him by his customers. This is true because a person may use only the allotment number which appears on the allotment made to him with his authorized production schedule. Thus a manufacturer of a Class B product, such as electric motor controls, receives an allotment of controlled material and a preference rating from the War Production Board which, in the case of electric motor controls, will be identified by the allotment number J-3. When he orders the production material he needs to make electric motor controls, he will use the symbol J-3 on his orders. Orders for electric motor controls from his customers will bear such allotment symbols as B-4, W-3, G-6, U-1, etc. The electric motor control manufacturer may not use these symbols on his own orders for production materials for the manufacture of electric motor controls.

(b) On the other hand, a manufacturer of a Class A product receives his allotments from his customers and therefore uses the allotment numbers appearing on his customers' orders when he orders materials needed to make the Class A product. Thus, a manufacturer of a Class A product who receives an order from a customer and an allotment identified by the allotment number O-5 will use the allotment number O-5 in placing his orders for production materials needed to fill the order.

(c) An allotment number or symbol alone never constitutes an allotment of controlled materials. In making an allotment a consumer must specify the controlled material and the exact quantity allotted. Attention is called to the fact that under paragraph (f) of CMP Regulation No. 1, allotments of controlled material must be made only in the form and shape in which they are allotted to the consumer. (Issued Oct. 8, 1943.)

INTERPRETATION 20—PROCURING CLAIMANT AGENCIES

(a) The "procuring" Claimant Agencies under the Controlled Materials Plan are:

(1) War Department (including Ordnance).

(2) Navy Department.

(3) Maritime Commission.

(4) Aircraft Resources Control Office.

(5) Foreign Economic Administration.

(b) The other Claimant Agencies are sometimes referred to as "non-procuring" Claimant Agencies. (Issued Oct. 26, 1943.)

INTERPRETATION 21—TEMPORARY LOANS

(a) Paragraph (u) of CMP Regulation No. 1 (§ 3175.1), which places restrictions on the use of controlled materials and Class A products obtained pursuant to an allotment, does not forbid a short term "loan" of controlled materials or Class A products to another manufacturer for his use in filling an authorized production schedule. Whenever a loan is made, the consumer must make certain that the material loaned will be returned to him when he needs it. A loan for more than three months would generally be considered equivalent to a transfer of the materials and therefore unauthorized except as provided in paragraph (u). A consumer must never make such a loan when lending the material would prevent fulfillment of the consumer's authorized production schedule.

(b) A consumer borrowing controlled materials or Class A products does not have to reduce his allotment account under paragraph (v) of the regulation, relating to adjustments on account of controlled materials or Class A products obtained without use of allotments, since the loan is made on a temporary basis and he must be in a position to use his allotment to return, in kind, the material borrowed.

(c) Full records of the loan transaction must be kept by both persons lending and persons borrowing. (Issued Nov. 3, 1943.)

INTERPRETATION 22—REJECTION OF ORDERS

(a) Paragraph (t) (3) of CMP Regulation No. 1 [§ 3175.1] requires a controlled materials producer to reject any order other than an authorized controlled material order, a sample order or an order which he is required or authorized to fill by the War Production Board. This provision does not require a producer to refuse to receive a piece of paper on which an order is written. It does require the producer to refuse to fill an order or schedule it unless it is an order which he is specifically authorized to fill. The order must be specifically rejected and the producer may either return the paper on which the order is written or file it, as he sees fit. In any case he must let his customer know that he cannot schedule the order and that his customer should not expect delivery against it.

(b) Customers who place with a producer orders which the latter is prohibited from filling cause an unnecessary increase in the volume of paper work. It is therefore suggested that purchasers should refrain from placing unauthorized orders, even if they intend to validate the orders later.

(c) While the placing of a delivery order before an allotment is received is discouraged, it is recognized that in certain cases customers will find it necessary to place orders before they have received their allotments. This may happen, for example, in the case of long-term contracts extending beyond the period for which advance allotments have been made. In such a case, a delivery order may be converted into an authorized controlled material order either by furnishing a copy of the order conforming to the requirements of paragraph (s) of the regulation or by furnishing, in writing, the requisite information clearly identifying the order and bearing the certification required by subparagraph (3) of paragraph (s). Such an order must be treated as an authorized controlled material order as of the date on which the necessary information and certificate (including the allotment number) are received by the producer. (Issued Nov. 10, 1943.)

INTERPRETATION 23

Definition of steel. The word "steel" as used in CMP regulations has the same meaning as "steel" as defined in Order M-21, as amended from time to time, except that it includes only those forms and shapes listed in Schedule I of CMP Regulation No. 1. [Issued Aug. 4, 1944.]

INTERPRETATION 24

RECORDS OF EXPORTERS

Paragraph (y) (3) of CMP Regulation No. 1 requires each prime consumer to retain for two years all documents on which he relies as entitling him to make or receive an allot-

ment or to deliver or accept delivery of controlled materials or Class A products. The Foreign Economic Administration and its predecessors, the Board of Economic Warfare and the Office of Economic Warfare, have since the institution of the Controlled Materials Plan made allotments of controlled materials to exporters for export by endorsing appropriate legends upon export licenses. The original of every export license, however, is required by other Government regulations to be surrendered to export officials at the time of shipment. Consequently, persons who receive their assignments and preference ratings on export licenses are not in a position to retain the original of the export license, and thus are not required to do so by paragraph (y) (3) except only in those cases where other Government regulations do not require the surrender to the Government of the documents referred to. [Issued April 18, 1944.]

INTERPRETATION 25

ALLOTMENT SYMBOLS THAT DO NOT REQUIRE QUARTERLY IDENTIFICATION

Paragraph (s) of CMP Regulation No. 1 explains that in placing an authorized controlled material order the quarterly identification (which is explained in paragraph (c) (6) (i)), must be added. In certain cases, where allotments are not made, a consumer is entitled to place an authorized controlled material order without using the quarterly identification. However, in such a case, the order must still bear the requested delivery date. A list of the symbols which can be used to place an authorized controlled material order without the quarterly identification, the purpose for which such symbols are used, and the related order follows:

Symbol	Use	Order
SO	Small order procedure	CMP Regulation 1.
P-1	Petroleum industry—production	P-98-b.
F-5[1]	Petroleum industry—special production	P-98-b.
MRO	Maintenance, repair and operating supplies	CMP Regulations 5 and 5A.
MRO-P-3	do	P-98-b.
MRO-P-47	Petroleum Industry MRO (Serial number) Maintenance, repair and operating supplies—civilian aircraft.	P-47.
MRO-P-89	Maintenance, repair and operating supplies—chemicals	P-89.
MRO-P-98-e	Maintenance, repair and operating supplies—petroleum industry consumer accounts.	P-98-e.
MRO-P-133	Maintenance, repair and operating supplies—electronic equipment.	P-133.
MRO-P-136	Maintenance, repair and operating supplies—scrap yards (serialized).	P-136.
MRO-P-141	Maintenance, repair and operating supplies—public sanitary sewer facilities.	P-141.
S-1	Industrial repairmen	CMP Regulation 9A.
S-2	Extension of public sanitary sewer facilities	P-141.
S-8	Iron and steel producers	P-68.
T-7	(Serial number) Transportation systems	P-142.
V-9	Laboratories	P-43.
S-4	For steel only for rural water well drillers	P-148.
U-9	Utilities—under orders	U-1, U-3, U-4.
V-3	Retailers and repair shops	CMP Regulations 9 and 9A.
F-6	Construction and facilities	CMP Regulation 6, Direction 1.
W-6	Construction and facilities—Army	CMP Regulation 6, Direction 3 (CMPL-593).
N-O	Construction and facilities—Navy	CMP Regulation 6, Direction 3 (CMPL-593).
H - (Program No.)	Construction and facilities—housing	P-55-c (WPB-2896).
U-2[2]	Construction and facilities—utilities	CMP Regulation 6, Direction 4 (WPB-2774).
WH	Orders placed by warehouses	M-21-b-1 and M-21-b-2.
PX	Steel producers exchange	CMP Regulation 1, Direction 6.
AM	Purchase of aluminum ingot and powder	Direction 49 to CMP Regulation 1 and M-1-g.
E-2	MRO purchased for foreign countries	Direction 53 to CMP Regulation 1.
E-4	Discarded, offgrade, idle, and excess steel purchases	

[1] In some cases a quarterly limitation is placed on the operator who places the order. However, a controlled material supplier does not need to require a quarterly designation on any order bearing the symbol F-5.
[2] In some cases the WPB-2774 authorization gives specific quantities for specific quarters. A controlled materials supplier does not need to require a quarterly designation on any order bearing the symbol U-2.

(Amended October 25, 1944)

LIST OF DIRECTIONS 1 THROUGH 60 TO CMP-REG. NO. 1

1. Pursuant to paragraph (t) (6)—Steel Producers—Obsolete.
2. Pursuant to paragraph (t) (6)—Aluminum Producers—Obsolete.
3. Pursuant to paragraph (t)—Copper Wire and Cable Producers—Obsolete.
4. O-1, O-4 and N-4 Orders on Brass Mills.
5. Heat Treated and Normalized Carbon and Alloy Steel Bars for Commercial Warehouse Orders—Obsolete.
6. Rules Governing Certain Deliveries of Steel Between Producers and Others.
7. Pursuant to paragraph (t) (6)—Aluminum Producers—Obsolete.
8. Intra-Company Deliveries of Aluminum.
9. Brass Mill and Wire Mill Direction.
10. Rolled and Forged Armor Plate.
11. Delayed Delivery on April Orders—Obsolete.
12. Water Well Drillers—Revoked January 4, 1944.
13. Complete Bills of Material—Revoked October 9, 1943.
14. Rerating Not Compulsory—Obsolete.
15. Mill Stocks of Steel.
16. Replacement of Defective Controlled Material.
17. Brass Mill Direction—Obsolete.
18. Acceptance of Orders for Steel—Revoked.
19. Tin Plate, Short Ternes and Tin Mill Black Plate for Can Manufacturers.
20. BEW and Lend-Lease Orders.
21. Farmers Copper Wire Allotment Certificates.
22. Special Allotments.
23. Acceptance of Orders for Aluminum by Aluminum Producers and the Effect of Delays in Production.
24. Steel Furnished by Fabricators on Construction Projects.
25. Forgings in Controlled Material Form.
26. When Allotments may be Returned by a Secondary Consumer Directly to a Claimant Agency or Industry Division.
27. Right to Specify Allotment Quarter.
28. Controlled Material Lost or Stolen in Transit.
29. OEW and Lend-Lease Orders.
30. Copper Water Tubing—Revoked November 25, 1943.
31. Ammunition Brass Strip, Rod and Tube.
32. Production and Delivery of Less Than Minimum Mill Quantities of Brass Mill Products Ahead of Schedule.
33. Placement and Acceptance of Orders for Small Amounts of Aluminum and Aluminum Alloy Extruded Shapes.
34. Class A Facilities not Related to Construction.
35. Jigs, Dies, Molds, Fixtures and Special Tooling.
36. Cases in Which a Person who has Received an Allotment for the Manufacture of a Class B product may make Allotments or Furnish Controlled Materials to a Manufacturer of the Class B Product.
37. Consolidation of Army Ordnance Programs O-5 and O-6.
38. Galvanized Steel Products in Controlled Material Form.
39. Official Class B Product List.
40. Railroad Frogs and Switches.
41. Allotment Procedure for Manufacturers of Class A Products When Used for Ship Repairs and Bureau of Ships' Special Navy Products, When Used for Ship Repairs.
42. Copper Powder.
43. Elimination of 1943 Orders for Aluminum.
44. Applications by Producers and Distributors for Permission to Sell Rejected or Excess Steel.
45. Scheduling Provisions Applicable to M-293 Products.
46. Change in Program Numbers of the Maritime Commission.
47. Acceptance of Orders for Steel for Delivery from Mill Stock.
48. Purchases or Sales of Controlled Materials through an Intermediary.
49. Acceptance of Orders and Shipment of Aluminum Ingot.
50. Consolidation of Army Programs W-2 and W-4.
51. War Department Small Orders.
52. Application for Permission to Use Excess Materials.
53. Controlled Materials Purchased for MRO in Foreign Countries.
54. Deferred Allotments.
55. Carded Cotton Yarns.
56. Aluminum Allotment Forms.
57. Aluminum Ingot for Aluminum Foundries.
58. Notice by Brass Mills regarding Scheduling of "Z-1" Orders.
59. Aluminum for Certain Destructive and Similar Direct Uses.
60. Notice by Copper Mills regarding Scheduling of "Z" Orders.

[F. R. Doc. 45-1524; Filed, Jan. 25, 1945; 11:26 a. m.]

PART 3290—TEXTILE, CLOTHING AND LEATHER

[Conservation Order M-328, Direction 9]

PRODUCTION OF MEN'S HEAVY WEIGHT UNDERWEAR, FEBRUARY AND MARCH 1945

The following direction is issued pursuant to Conservation Order M-328:

(a) *Production quotas.* Each person in the business of producing knit underwear, who in February or March 1944 produced any of the following types of underwear, shall during the months of February and March 1945 produce, and accept and fill orders for, at least as many dozens of each of the following types of knit underwear as he produced during the months of February and March 1944. Production of knit underwear on orders of or for the account of the U. S. Army or Navy shall be excluded in computing these quotas.

The types of knit underwear referred to above are:

Men's knit union suits, over 9 lbs. per dozen in weight based on size 42, long sleeves, ankle length.

Men's knit shirts, over 6 lbs. per dozen in weight based on size 42, long sleeves.

Men's knit drawers, over 4¾ lbs. per dozen in weight based on size 38, ankle length.

(b) *Priorities assistance.* Any person who is unable to obtain without priorities assistance sufficient cotton knitting yarn, or cotton broad woven fabric for findings, to be able to comply with the provisions of paragraph (a) must file with the War Production Board, Textile, Clothing and Leather Bureau, Washington 25, D. C., by February 5, 1945, an application on Form WPB-2842 for priorities assistance to obtain sufficient cotton knitting yarn and cotton broad woven fabrics to complete the required production. A preference rating will be assigned to such applicants to obtain sufficient cotton knitting yarn, and cambric, sateen, twill, jean cloth or similar fabrics customarily used for facings, bindings, and stays to complete the production of the number of garments required.

(c) *Military orders.* Any person subject to this direction who has accepted orders to produce items for the Army, Navy or Maritime Commission shall fill such orders and, to the extent necessary to do so, may produce less than the quantity of men's underwear required by paragraph (a), but this direction must be complied with regardless of its effect on production of civilian items other than those specified in paragraph (a).

Issued this 24th day of January 1945.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 45-1488; Filed, Jan. 24, 1945; 4:11 p. m.]

PART 3281—PULP AND PAPER

[General Conservation Order M-241-a, Direction 1]

"CONDENSER TISSUE" AND "SANITARY FOOD CONTAINER STOCK"

Correction

In the document appearing at page 895 of the issue for Wednesday, January 24, 1945, the FEDERAL REGISTER serial number should be "45-1408".

Chapter XI—Office of Price Administration

PART 1305—ADMINISTRATION

[Gen. RO 5,[1] Amdt. 91]

FOOD RATIONING FOR INSTITUTIONAL USERS

A rationale accompanying this amendment issued simultaneously herewith has been filed with the Division of the Federal Register.*

Section 18.6 is added to read as follows:

SEC. 18.6 *Institutional users must report inventories of certain citrus juices on hand on January 28, 1945.* (a) Each institutional user (other than a Group I user) must file with the board with which he is registered a signed report showing separately his inventory of grapefruit juice and orange-grapefruit juice blended (in points) as of the close of business on January 27, 1945. (Grapefruit juice and orange-grapefruit juice blended acquired for points between 12:01 a. m., January 18, 1945 and 12:01 a. m., January 28, 1945 are not included.)

(b) If he has only one institutional user establishment, or more than one such establishment registered separately, the report must be filed not later than February 10, 1945. If he has more than one establishment registered together, the report must be filed not later than February 17, 1945.

(c) No institutional user may get an allotment after February 10, 1945, or February 17, 1945, as the case may be, unless he has made the report required by this section to the board with which he is registered.

This amendment shall become effective January 24, 1945.

NOTE: All reporting and record-keeping requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1489; Filed, Jan. 24, 1945; 4:37 p. m.]

PART 1347—PAPER, PAPER PRODUCTS, RAW MATERIALS FOR PAPER AND PAPER PRODUCTS, PRINTING AND PUBLISHING

[RMPR 114,[1] Amdt. 3]

WOODPULP

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Revised Maximum Price Regulation No. 114 is amended in the following respects:

1. Appendix A (a) (1) is amended to read as follows:

APPENDIX A—MAXIMUM PRICES FOR WOODPULP

(a) *Domestic sales.* (1) Maximum prices for woodpulp sold to consumers located within the continental limits of the United States. Prices are per short air dry ton, delivered consuming mill including the basic maximum transportation allowances as provided in paragraph (a) (3) (i) below.

Maximum prices applicable to woodpulp delivered to consumers mills located east of the Continental Divide exclusive of Denver, Colorado, and to woodpulp produced east of said Continental Divide, excluding said City of Denver, and delivered to consumers mills located west of said Divide, or in said City of Denver:

Bleached softwood sulphite	$86.00
Unbleached softwood sulphite	74.00
Bleached hardwood sulphite	83.50
Unbleached hardwood sulphite	71.50
Northern bleached sulphate	86.00
Southern bleached sulphate	79.00
Northern semi-bleached sulphate	82.00
Southern semi-bleached sulphate	75.00
Northern unbleached sulphate	73.00
Southern unbleached sulphate	63.50
Bleached soda pulp	76.00
Unbleached soda pulp	72.00
Groundwood pulp	50.00
Groundwood pulp—paper machine dried	53.00
Sulphite screenings	43.50
Sulphate screenings	38.00
Groundwood screenings	32.00
Northern unbleached sulphate sideruns	73.00
Southern unbleached sulphate sideruns	63.50
Standard newsprint sideruns	50.00

2. Appendix A (b) (1) is amended to read as follows:

(b) *Lend-lease sales.* (1) Maximum prices which may be charged on sales to the Lend-Lease Administration shall be per short air dry ton, f. o. b. cars or trucks producer's mill, or f. a. s. barge or steamer at the producer's mill or mill dock as the Lend-Lease Administration may direct, as follows:

	Producing area			
	Northeast	Lake Central	Southern	West Coast
Bleached softwood sulphite	$80.00	$80.00	$78.00	$74.00
Unbleached softwood sulphite	68.00	68.00		63.00
Bleached hardwood sulphite	77.50	77.50	75.50	
Unbleached hardwood sulphite	65.50	65.50	63.50	
Northern bleached sulphate				74.00
Southern bleached sulphate			71.00	
Northern semi-bleached sulphate				70.00
Southern semi-bleached sulphate			67.00	
Northern unbleached sulphate				61.00
Southern unbleached sulphate			55.50	
Bleached soda	70.00	70.00	68.00	

This amendment shall become effective January 30, 1945.

Issued this 25th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1510; Filed, Jan. 25, 1945; 11:21 a. m.]

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*Copies may be obtained from the Office of Price Administration.

[1] 8 F.R. 10002, 11479, 11480, 11676, 12403, 12483, 12744, 14472, 15488, 16787, 17485; 9 F.R. 401, 455, 692, 1810, 2212, 2252, 2287, 2476, 2789, 3030, 3075, 3577, 3704, 4196, 4393, 4647, 4873, 5041, 5232, 5684, 5826, 5915, 6108, 6504, 6628, 7167, 7260, 7703, 7770, 8242, 8813, 9952, 10069, 10578, 12121, 12449, 12919.

[1] 9 F.R. 6630, 6951, 12742, 13934.

Chapter XIV—War Contracts Price Adjustment Board

The Renegotiation Regulations have been adopted by the War Contracts Price Adjustment Board and control the renegotiation of contracts and subcontracts pursuant to section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended, with respect to renegotiation for fiscal years ending after June 30, 1943. The following regulations comprise the Renegotiation Regulations complete through Revision 14, dated December 29, 1944. These regulations are subject to revision and amendment and the addition of rulings on subjects not covered.

[SEAL] JAMES S. FEIGHT,
Secretary.

RENEGOTIATION REGULATIONS

NOTE: In order to conform the Renegotiation Regulations to the numbering system used in the Code of Federal Regulations, the following changes have been made: Chapters in the original regulations have been treated as parts, sections as subparts, and paragraphs as sections. Thus Chapter I becomes Part 1601, Chapter II becomes Part 1602, section 1 of any chapter becomes Subpart A, section 2 becomes Subpart B, etc. Paragraphs in the original regulations become sections, with the number to the right of the decimal point corresponding to the original paragraph number, except that in paragraphs of the original regulations containing a decimal point a dash has been substituted for the decimal point. The original paragraph numbers appear in brackets following text affected.

For an explanation of the numbering and arrangement of the original Renegotiation Regulations, see § 1601.123.

PART 1601—AUTHORITY AND ORGANIZATION FOR RENEGOTIATION

SUBPART A—SUMMARY OF RENEGOTIATION ACT OF 1943 AND RELATED STATUTES

SUBPART B—PRELIMINARY MATERIAL

SUBPART C—ORGANIZATION AND FUNCTIONS OF THE PRICE ADJUSTMENT BOARDS AND SECTIONS

Sec.
1601.137 RFC Price Adjustment Board.
1601.138 Joint Price Adjustment Board.
1601.139 Addresses.

SUBPART D—RELATION OF RENEGOTIATION ACT AND ROYALTY ADJUSTMENT ACT CONCERNING PATENTS

1601.140 Scope of section.
1601.141 Royalty Adjustment Act.
1601.142 Patent licenses subject to renegotiation.
1601.143 Allowance of royalties as costs.

SUBPART A—SUMMARY OF RENEGOTIATION ACT OF 1943 AND RELATED STATUTES

§ 1601.101 *Scope of subpart.* The summary of the Renegotiation Act of 1943 in this subpart is designed to provide only a general outline of its structure and basic provisions. The detailed discussion of these provisions and of their interpretation and application is contained under the appropriate subparts of subsequent parts of this chapter. [RR 101]

§ 1601.102 *War Contracts Price Adjustment Board.* Subsection (d) of the 1943 act creates the War Contracts Price Adjustment Board, which, for convenience, is referred to in these regulations as the War Contracts Board. Authority with respect to renegotiation is vested in this Board subject, however, to being delegated, in the Board's discretion, to the Secretaries of the Departments, with right of redelegation. The Board is composed of six members, one each from the War Department, the Navy Department, the Treasury, the Maritime Commission or the War Shipping Administration, the Reconstruction Finance Corporation, and the War Production Board. The War Contracts Board, its powers, duties and functions, and its authority to delegate its duties and functions are described more fully in § 1601.130 and following. [RR 102]

§ 1601.103 *Coverage.* (a) In general, the 1943 act applies to amounts received or accrued in fiscal years ending after June 30, 1943 under all contracts with the Departments and subcontracts, with the exceptions stated under § 1601.104 (subsection (c) (6) discussed in § 1603.348).

(b) Subcontracts include purchase orders or agreements to perform all or any part of the work, or to make or furnish any article, required for the performance of any other contract or subcontract but do not include any purchase order or agreement to furnish office supplies. A contract or arrangement to procure a contract with a Department or a subcontract thereunder is also a subcontract. Subcontracts are not limited to those made by a prime contractor but include those made by a subcontractor or sub-subcontractor down through the various tiers (subsection (a) (5), discussed in § 1603.333).

(c) The coverage of the 1943 act is discussed in detail in Part 1603. [RR 103]

§ 1601.104 *Exclusions and exemptions.* [RR 104]

§ 1601.104–1 *Mandatory.* The 1943 act does not apply to:

(a) Contracts between the Departments and other Governmental agencies (subsection (i) (1) (A), discussed in § 1603.343);

(b) Contracts or subcontracts for certain raw materials (subsection (i) (1) (B), discussed in § 1603.344);

(c) Contracts or subcontracts for agricultural commodities in a certain form or state (subsection (i) (1) (C), discussed in § 1603.344–2);

(d) Contracts or subcontracts with tax exempt charitable, religious or educational institutions (subsection (i) (1) (D), discussed in § 1603.345);

(e) Construction contracts with a Department let under competitive bidding (subsection (i) (1) (E), discussed in § 1603.346); or

(f) Subcontracts under prime contracts or other subcontracts of the types listed above which are exempted by subsection (i) (1) (subsection (i) (1) (F), discussed in § 1603.347). [RR 104.1]

§ 1601.104–2 *Permissive.* The War Contracts Board may, in its discretion, exempt from any or all of the provisions of the 1943 act:

(a) Any contract or subcontract:

(1) To be performed outside of the continental United States or in Alaska (subsection (i) (4) (A), discussed in § 1603.351);

(2) Under which the profits can be determined with reasonable certainty when the contract price is established (subsection (i) (4) (B), discussed in § 1603.352);

(3) During a specified period or periods, to the extent that the contract provisions are adequate to prevent excessive profits (subsection (i) (4) (C), discussed in § 1603.353);

(4) For a standard commercial article if competitive conditions are such as will reasonably protect the Government (subsection (i) (4) (D), discussed in § 1603.354)

(5) If competitive conditions affecting the making of such contract or subcontract are likely to result in effective competition with respect to the contract price (subsection (i) (4) (E), discussed in § 1603.355); or

(b) Any subcontract or group of subcontracts, if it is not administratively feasible to segregate the renegotiable from the non-renegotiable business (subsection (i) (4) (F), discussed in § 1603.356).

The Board may make such exemptions by individual contracts or by general classes or types of contracts (subsection (i) (4), discussed in §1603.357). [RR 104.2]

§ 1601.104–3 *Exemption measured by volume of business.* Subsection (c) (6) provides that renegotiation shall not apply to any contractor or subcontractor unless the aggregate of the amounts received or accrued by the contractor or subcontractor (and all persons under the control of or controlling or under common control with the contractor or subcontractor) under contracts with the Departments and subcontracts, not including subcontracts for procuring contracts or subcontracts, exceed $500,000 (discussed in § 1603.348). In the case of subcontracts for the procuring of contracts or subcontracts, this figure is $25,000 (discussed in § 1603.348). [RR 104.3]

§ 1601.104–4 *Profits from increment in value of excess inventories.* The 1943 act excludes from renegotiation that portion of the profits derived from contracts with the Departments and subcontracts attributable to the increment in value of excess inventories of certain raw materials and agricultural commodities (subsection (i) (3), discussed in § 1603.344–4). [RR 104.4]

§ 1601.105 *Renegotiation clauses in contracts.* (a) The 1943 act directs each Secretary to insert in each contract made by his Department, involving more than $100,000, terms under which the contractor agrees (1) to renegotiation, (2) to the withholding or recovery of excessive profits by the United States and (3) that he will insert like terms in all subcontracts made by him involving more than $100,000, and will require the subcontractor to insert like terms in contracts entered into by him. In the case of subcontracts for procuring contracts with the Departments these terms are to be placed in all such subcontracts for more than $25,000 (subsection (b), discussed in § 1603.331).

(b) The 1943 act permits these terms to be incorporated in contracts and subcontracts by reference and each contract or subcontract is made subject to such terms whether or not they are incorporated either physically or by reference. [RR 105]

§ 1601.106 *Determination of excessive profits.* [RR 106]

§ 1601.106–1 *Costs.* In determining the profits from renegotiable business, the 1943 act requires the War Contracts Board to allow costs determined in accordance with the method of cost accounting regularly employed by the contractor or if such method does not properly reflect such costs, the Board is authorized to prescribe the method under which such costs shall be determined. No item of cost shall be allowed which is unreasonable or which is not properly chargeable to the contract or subcontract. Notwithstanding these provisions, all items estimated to be allowable as deductions or exclusions for income tax purposes, to the extent they are allocable to renegotiable business, are to be allowed in determining excessive profits. State income taxes, to the extent they are attributable to the portion of the contractor's profits determined to be excessive, however, are not allowable (subsection (a) (4) (B), discussed in § 1603.389). [RR 106.1]

§ 1601.106–2 *Unused amortization deduction.* The 1943 act provides for the repayment by the United States to a contractor or subcontractor, without inter-

est, of the amount of the net renegotiation rebate determined in accordance with procedures and principles set forth in the 1943 act in the event of a recomputation of the amortization deduction provided for in section 124 (d) of the Internal Revenue Code (subsections (a) (4) (C) and (D), discussed in § 1603.388–2). [RR 106.2]

§ 1601.106–3 *Fair cost allowance in the exempted state for raw materials and agricultural commodities in the case of integrated producers.* In order to provide for equitable treatment of the integrated producer, the 1943 act provides for the allowance of a fair amount of cost in the exempted state for certain raw materials and agricultural commodities in the case of integrated producers who produce or acquire such materials or commodities below such state and process them up to and beyond such state (subsection (i) (3), discussed in § 1603.344–3). In this connection attention is also directed to § 1601.104–4 supra, which in effect gives the contractor or subcontractor who acquires the exempted raw materials and agricultural commodities at the exempt stage the benefit of a similar special cost allowance to the extent that such products constitute excess inventory of such a contractor or subcontractor. [RR 106.3]

§ 1601.106–4 *Factors in determining excessive profits.* The 1943 act defines excessive profits to be the portion of the profits from the renegotiable business of the contractor or subcontractor which in the light of a list of factors set out in subsection (a) (4) (A) of the act is determined to be excessive. These factors cover such matters as efficiency, costs, capital, risk, contribution to the war effort, character of business, and such other factors as the public interest and fair and equitable dealing may require (discussed fully in § 1604.408 and following). [RR 106.4]

§ 1601.107 *Renegotiation by fiscal years.* The 1943 act applies to fiscal years ending after June 30, 1943, and requires that renegotiation be conducted on an overall fiscal year basis. Renegotiation may relate to any period other than a full fiscal year only with the consent of the contractor or subcontractor. The 1943 act requires that renegotiation relate to the aggregate of the contractor's war business for the year unless the contractor requests and the War Contracts Board agrees to the renegotiation of separate contracts (subsection (c) (1), discussed in §§ 1603.301–1601.303). [RR 107]

§ 1601.108 *Renegotiation procedure.* [RR 108]

§ 1601.108–1 *Mandatory filing of statement.* The 1943 act requires every contractor or subcontractor not specifically exempted from renegotiation to file with the Board on or before the first day of the fourth month following the close of the fiscal year, or after the date of the enactment of the Revenue Act of 1943, whichever is the later, a statement containing such information as the Board may by regulations prescribe (subsection (c) (5) (A), discussed in § 1602.220 and following). In addition to this statement, which is considered to be the statement for the purposes of the beginning of the statute of limitations, the War Contracts Board may require from the contractor or subcontractor any other data, information or records deemed desirable. [RR 108.1]

§ 1601.108–2 *Commencement of renegotiation proceedings.* The contractor or subcontractor will be given reasonable notice of the time and place for a conference with respect to renegotiation. The mailing of such notice by registered mail to the contractor or subcontractor constitutes the commencement of the renegotiation proceedings (subsection (c) (1), discussed in § 1602.241). [RR 108.2]

§ 1601.108–3 *Statute of limitations.* Renegotiation proceedings must be commenced within twelve months from the close of the fiscal year or within twelve months of the date of the filing of the statement referred to in § 1601.108–1, whichever is the later. If such proceedings are not completed or if an agreement or order determining the amount of excessive profits is not made within one year from the commencement of the renegotiation proceedings, the liability of the contractor or subcontractor under the 1943 act will be discharged. However, this one year period may be extended by mutual agreement (subsection (c) (3), discussed in §§ 1603.362 and 1603.363). [RR 108.3]

§ 1601.108–4 *Agreement or order determining excessive profits.* Upon the mailing of the notice and the commencement of the renegotiation, the Board will endeavor to make a final or other agreement with the contractor or subcontractor with respect to the elimination of excessive profits. If such an agreement is not made, the act authorizes the Board to issue an order determining the amount of the excessive profits (subsection (c) (1), discussed in § 1606.620 and following). [RR 108.4]

§ 1601–108.5 *Statement to the contractor or subcontractor.* Whenever a determination is made as to the amount of excessive profits, whether by order or by agreement, the Board or its authorized agency, at the request of the contractor or subcontractor, will furnish a statement setting out the determination of excessive profits made in his case, the facts used as a basis therefor, and the reasons for such determination (subsection (c) (1), discussed in § 1605.520 and following). [RR 108.5]

§ 1601.108–6 *Eliminating excessive profits.* When the amount of excessive profits accumulated by a contractor has been determined, either by agreement or order, the War Contracts Board or its authorized agency shall eliminate such excessive profits. In eliminating such excessive profits there is allowed a credit for Federal income and excess profits taxes in accordance with section 3806 of the Internal Revenue Code (subsection (c) (2), discussed in § 1604.440 and following). [RR 108.6]

§ 1601.109 *Delegation and review.* [RR 109]

§ 1601.109–1 *Delegation.* The War Contracts Board may delegate in whole or in part any of its powers, functions or duties to the Secretary of a Department and such Secretary may, in turn, redelegate such powers, functions or duties to such officers or agencies of the United States as he may designate. He may authorize successive redelegations (subsection (d) (4), discussed in § 1601.131–3). [RR 109.1]

§ 1601.109–2 *Review by the War Contracts Board.* The determination by any person or agency exercising the delegated powers of the War Contracts Board may be reviewed by the Board either upon its own motion, or, in its discretion, at the request of the contractor or subcontractor. The Board's determination may be less than, equal to, or greater than the determination reviewed. Unless the War Contracts Board upon its own motion initiates a review of the prior determination within sixty days from the date of such determination, or at the request of the contractor or subcontractor made within sixty days from the date of such determination initiates a review of such determination within sixty days from the date of such request, such determination becomes the determination of the War Contracts Board (subsection (d) (5), discussed in §§ 1606.624 and 1606.625). [RR 109.2]

§ 1601.110 *Redetermination of excessive profits by The Tax Court of the United States.* The Renegotiation Act provides that any contractor or subcontractor aggrieved by a unilateral determination of excessive profits by the War Contracts Board (under the Renegotiation Act of 1943), or by the Secretary of a Department (under the Renegotiation Act of 1942), may petition The Tax Court of the United States for a redetermination of such excessive profits. Proceedings before the Tax Court are de novo. The Court may find an amount of excessive profits less than, equal to, or greater than the amount found by the Board. The petition for a redetermination must be made to the Tax Court within ninety days after the entry of the order or the date of the enactment of the Revenue Act of 1943 (February 25, 1944), whichever is the later (subsection (e), discussed in § 1606.630 and following). [RR 110]

§ 1601.111 *Applicability.* [RR 111]

§ 1601.111–1 *Applicability of the 1943 act in general.* In general, the provisions of the 1943 act apply to all fiscal years ending after June 30, 1943. Prior fiscal years are covered by the Renegotiation Act of 1942 (section 701 (d) of the Revenue Act of 1943 set forth in full in § 1608.801–13 and §§ 1601.122–10 and 1601.122–11). [RR 111.1]

§ 1601.111–2 *Applicability in special cases.* There are several exceptions to the general rule set forth in § 1601.111–1.

(a) Provisions of the 1943 act made retroactive:

(1) Subsections (a) (4) (C) and (a) (4) (D) relating to the adjustment of excessive profits for any year on account of the recomputation of the amortization deduction (discussed in § 1603.383–2);

(2) Subsection (i) (3) which provides for a fair cost allowance in the exempted state for certain raw materials and agricultural commodities in the case of integrated producers and which excludes from renegotiation the profits realized because of the increment in value of excess inventories of raw materials and agricultural products acquired in the exempted state (discussed in §§ 1603.344–3 and 1603.344–4);

(3) Subsection (i) (1) (C) which exempts from renegotiation contracts or subcontracts for certain agricultural commodities (discussed in § 1603.344–2);

(4) Subsection (i) (1) (D) which exempts contracts or subcontracts with tax exempt charitable, religious or educational organizations (discussed in § 1603.345);

(5) Subsection (i) (1) (F) which exempts subcontracts under prime contracts or other subcontracts exempted by subsection (i) (1) (discussed in § 1603.347);

(6) Subsection (l) which provides a short title (see § 1601.122–9).

(b) Provisions of the 1943 act made effective from the date of the enactment of the Revenue Act of 1943, February 25, 1944:

(1) Subsection (d) which creates the War Contracts Price Adjustment Board and sets out its organization, powers, and duties (discussed in § 1601.131); and

(2) Subsection (e) (2) which provides for the redetermination of excessive profits by the Tax Court in the case of unilateral determinations by the Secretaries under the provisions of the Renegotiation Act of 1942. [RR 111.2]

§ 1601.111–3 *Termination of renegotiation.* The 1943 act provides that amounts received or accrued after December 31, 1944, will not be subject to renegotiation unless the President finds and proclaims before December 1, 1944, that competitive conditions have not been restored; in which case renegotiation would extend to amounts received or accrued up to any date specified in such proclamation which is not later than June 30, 1945. The 1943 act also provides that in case the President finds and proclaims on or before June 30, 1945, that competitive conditions have been restored as of any date within 6 months prior to such proclamation, renegotiation will not apply to amounts received or accrued after such termination of the statute. A special provision is made in the case of long term contracts which are begun before and completed after the termination date (subsection (h), discussed in § 1603.371). [RR 111.3]

§ 1601.112 *Applicable and related statutes.* [RR 112]

§ 1601.112–1 *Renegotiation Act of 1943.* The full text of the Renegotiation Act of 1943 is set forth in § 1608.801. [RR 112.1]

§ 1601.112–2 *Section 3806 of the Internal Revenue Code.* Section 3806 of the Internal Revenue Code, referred to in subsection (a) (4) (D) and subsection (c) (2) of the Renegotiation Act of 1943, is set out in § 1608.802. Under that section the amount of Federal income and excess profits taxes assessed with respect to any excessive profits for a prior taxable year is credited against the amount of such profits in computing the amount to be refunded by the contractor or otherwise recovered. The effect of section 3806 of the Internal Revenue Code and of the Current Tax Payment Act of 1943 is discussed in § 1604.440 and following. [RR 112.2]

§ 1601.112–3 *Title XIII of Second War Powers Act.* Under subsection (c) (5) (B), the War Contracts Board is given the powers of inspection and audit of an agency designated by the President to exercise powers under Title XIII of the Second War Powers Act, 1942. For convenience, Title XIII is set forth in § 1608.803 of this chapter. The authority to make such inspections and audits is discussed in § 1606.601 and following. [RR 112.3]

§ 1601.112–4 *Repricing of war contracts.* Title VIII of the Revenue Act of 1943 provides that in cases in which the Secretary of a Department considers the price of any article or service required by his Department to be unreasonable or unfair he may fix by agreement, if possible, a fair and reasonable price therefor. If no agreement can be reached, the Secretary is authorized to fix, by order, a fair and reasonable price for deliveries after the date of such order and to prescribe the period during which such price shall be effective and such other terms and conditions as he deems appropriate. Contractors or subcontractors aggrieved by such an order may sue the United States for fair and just compensation. Repricing under Title VIII applies to both prime and subcontractors and applies without exemption or restriction until the end of the war. The statutory provisions relating to repricing are set forth in § 1608.804. [RR 112.4]

SUBPART B—PRELIMINARY MATERIAL

§ 1601.120 *Scope of subpart.* This subpart refers to the application and arrangement of the Renegotiation Regulations and the definitions used therein. [RR 120]

§ 1601.121 *Applicability of renegotiation regulations.* [RR 121]

§ 1601.121–1 *Years to which applicable.* The Renegotiation Regulations cover all renegotiation proceedings by the War Contracts Board or under its authority pursuant to the Renegotiation Act of 1943. They are effective only with respect to the fiscal years ending after June 30, 1943. [RR 121.1]

§ 1601.121–2 *Rescission of prior instructions.* (a) These regulations supersede all outstanding instructions of the War Contracts Board.

(b) Regulations of general application will be issued by the War Contracts Board only through amendments or additions to these Renegotiation Regulations.

(c) The revocation of prior instructions shall not affect the validity of any action taken in conformity with them before their revocation. [RR 121.2]

§ 1601.122 *Definitions of terms.* [RR 122]

§ 1601.122–1 *Statutory definitions.* Various terms are defined in the 1943 act including the following terms which are defined in paragraph (a) set forth in § 1608.801–1:

(a) "Department".
(b) "Secretary".
(c) "Renegotiate" and "renegotiation".
(d–1) "Excessive profits".
(d–2) "Profits derived from contracts with the Departments and subcontracts".
(d–3) "Gross renegotiation rebate" and "net renegotiation rebate".
(e) "Subcontract".
(f) "Article".
(g) "Standard commercial article".
(h) "Fiscal year".
(i) "Received or accrued" and "paid or incurred".

[RR 121.1]

§ 1601.122–2 *Chief of a service.* The term "Chief of a service" means the Commanding General, Army Air Forces, and the Chief of a Technical Service of the Army Service Forces. [RR 122.2]

§ 1601.122–3 *Contract.* The term "contract" is generally used to include a subcontract, except where the distinction between them is clear from the context. [RR 122.3]

§ 1601.122–4 *Contractor.* The term "contractor" is generally used to include both a contractor and a subcontractor, except where distinction between them is clear from the context. [RR 122.4]

§ 1601.122–5 *Department.* The term "Department" means "Department" as defined in subsection (a) of the Renegotiation Act of 1943 as follows:

(1) The term "Department" means the War Department, the Navy Department, the Treasury Department, the Maritime Commission, the War Shipping Administration, Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company, respectively.

[RR 122.5]

§ 1601.122–6 *Departmental Board.* The term "Departmental Board" means, respectively, the War Department Price Adjustment Board, the Navy Price Adjustment Board, the Treasury Department Price Adjustment Board, the Maritime Commission Price Adjustment Board, the War Shipping Administration Price Adjustment Board, and the RFC Price Adjustment Board established by Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation and Rubber Reserve Company. [RR 122.6]

§ 1601.122–7 *Joint Board.* The term "Joint Board" means the Joint Price Adjustment Board established by the Departments under date of September 24, 1943, having jurisdiction of certain matters relating to the 1942 act. [RR 122.7]

§ 1601.122–8 *Mandatory financial statement.* The term "mandatory financial statement" means the statement re-

quired by the regulations of the War Contracts Board pursuant to subsection (c) (5) (A) of the 1943 act (see § 1602.220 and following). [RR 122.8]

§ 1601.122–9 *Renegotiation Act.* The term "Renegotiation Act" means the 1942 act and the 1943 act in view of subsection (l) of the 1943 act and its retroactive application (see § 1608.801–12). [RR 122.9]

§ 1601.122–10 *Renegotiation Act of 1943, 1943 act.* The terms "Renegotiation Act of 1943" and "1943 act" mean section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended by section 701 of the Revenue Act of 1943 (Public 235, 78th Congress, enacted February 25, 1944), and expressed to be effective only with respect to the fiscal years ending after June 30, 1943 as provided in subsection (d) of said section 701 of the Revenue Act of 1943 (see § 1608.801). [RR 122.10]

§ 1601.122–11 *Renegotiation Act of 1942, 1942 act.* The terms "Renegotiation Act of 1942", and "1942 act", mean section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public, 528, 77th Congress, approved April 28, 1942), as amended by section 801 of the Revenue Act of 1942 (Public, 753, 77th Congress, approved October 21, 1942), by section 1 of the Military Appropriations Act, 1944 (Public, 108, 78th Congress, approved July 1, 1943), and by Public, 149 (78th Congress, approved July 14, 1943), and as further amended by section 701 (b) of the Revenue Act of 1943 (Public, 235, 78th Congress, enacted February 25, 1944) to the extent that section 701 (d) of the Revenue Act of 1943 makes the amendments made by section 701 (b) effective as if they had been a part of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, on the date of its enactment, April 28, 1942. [RR 122.11]

§ 1601.122–12 *Renegotiable business, renegotiable sales, and non-renegotiable business.* The terms "renegotiable business" and "renegotiable sales" mean the aggregate business of a contractor or subcontractor under contracts with the Departments and subcontracts which are subject to statutory renegotiation. The term "non-renegotiable business" means any business of a contractor other than "renegotiable business". [RR 122.12]

§ 1601.122–13 *Secretary.* The term "Secretary" means the Secretary of a Department and means "Secretary" as defined in subsection (a) of the Renegotiation Act of 1943 as follows:

(2) In the case of the Maritime Commission, the term "Secretary" means the Chairman of such Commission, in the case of the War Shipping Administration, the term "Secretary" means the Administrator of such Administration, and in the case of Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company, the term "Secretary" means the board of directors of the appropriate corporation.

[RR 122.13]

§ 1601.122–14 *Section.* The term "Section" means a Price Adjustment Section of the War Department, except where a different meaning appears from the context. [RR 122.14]

§ 1601.122–15 *Service.* The term "Service" means the Army Air Forces and the Technical Services of the Army Service Forces. [RR 122.15]

§ 1601.122–16 *Statutory renegotiation.* The term "statutory renegotiation" means renegotiation pursuant to the 1943 act. [RR 122.16]

§ 1601.122–17 *War Contracts Board.* The term "War Contracts Board" means the War Contracts Price Adjustment Board established under the 1943 act. [RR 122.17]

§ 1601.123 *Arrangement of renegotiation regulations.*[1] [RR 123]

§ 1601.123–1 *Organization.* For convenience these regulations are divided into chapters, each of which deals with a specified topic. Each chapter is divided into several sections, each of which contains a series of numbered paragraphs dealing with the same subject. [RR 123.1]

§ 1601.123–2 *Numbering.* The numbering of individual paragraphs is not consecutive, and is designed to permit additional paragraphs to be inserted later within the appropriate chapter and section. The number of a particular paragraph shows the chapter and section where it is found and also whether it is subordinate to a preceding paragraph. The first digit of the number indicates the chapter and the second digit the section in which the paragraph is found. Thus, paragraphs in Chapter I run from 100 to 199; those from 101 to 119 are under section 1, those from 120 to 129 are under section 2, etc. Where the number of a paragraph ends with a digit preceded by a decimal point (as 123.2), this indicates that it is part of the general subject covered by the basic paragraph (as 123). [RR 123.2]

§ 1601.123–3 *Citations.* Since the number of any paragraph indicates its place in these regulations, a paragraph may be referred to by citing its number only, and it is not necessary to refer to the chapter or section or page in these regulations where it appears. These regulations will be called the Renegotiation Regulations, which may be abbreviated as RR in referring to paragraphs; thus this paragraph may be cited as RR 123.3. [RR 123.3]

§ 1601.124 *Amendments and additions.* (a) When amendments or additions to these regulations are adopted by the War Contracts Board, they will become effective at once unless otherwise specified, but will not affect the validity of any determination theretofore made in accordance with prior regulations.

(b) All changes in these regulations and all additions to them will be issued in the form of additional or revised pages for this document. These regulations in loose-leaf form will be placed in the hands of interested personnel in the Departments. New and revised pages will be sent from time to time to the Departments for distribution to holders of the Renegotiation Regulations within the Departments. [RR 124]

§ 1601.125 *Changes in interpretations.* The regulations and interpretations of the statute in this document reflect the present judgment of the War Contracts Board and are subject to such revision as from time to time may appear desirable. [RR 125]

§ 1601.126 *Federal Register.* These regulations are being published in the FEDERAL REGISTER. Changes and additions will be so published from time to time as directed by the War Contracts Board. [RR 126]

§ 1601.127 *Official copies.* Official copies of the statutes referred to herein may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C. Official copies of Executive orders cited herein are set out in the FEDERAL REGISTER, which may also be procured from the Superintendent of Documents. [RR 127]

§ 1601.128 *Copies of renegotiation regulations.* The Renegotiation Regulations, along with current supplements embodying additions and amendments thereto as published in the FEDERAL REGISTER, are available in loose leaf form for a subscription price of $2.00 from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C. [RR 128]

SUBPART C—ORGANIZATION AND FUNCTIONS OF THE PRICE ADJUSTMENT BOARDS AND SECTIONS

§ 1601.130 *Statutory authority.* The authority and discretion to administer the Renegotiation Act of 1943 is conferred upon the War Contracts Board with power of delegation (see subsection (d) of the 1943 act in § 1608.801–4). [RR 130]

§ 1601.131 *War Contracts Price Adjustment Board.* [RR 131]

§ 1601.131–1 *Functions.* The War Contracts Price Adjustment Board has authority to administer the Renegotiation Act of 1943, including authority over agreements, unilateral determinations of excessive profits and exemptions. The Board has 6 members, of whom 4 constitute a quorum, and the Board may act by a majority of a quorum. [RR 131.1]

§ 1601.131–2 *Seal.* The seal of the Board shall be judicially noticed. [RR 131.2]

§ 1601.131–3 *Delegations.* The Board has power to delegate any of its authority to the Secretary of a Department, who may redelegate to such officers or agencies of the United States as he may designate, with right of redelegation. There is set forth below the organization for renegotiation in the various Departments having renegotiation authority. Delegations by the War Contracts Board to the Secretaries of the various Departments are set forth in § 1608.821–1. [RR 131.3]

§ 1601.131–4 *Jurisdiction.* The Board may, by regulation, or otherwise deter-

[1] See note following table of contents of chapter.

mine the character of cases to be conducted initially by the Board itself, those to be conducted by its officers or the officers utilized by it, and those to be conducted by the various officers and agencies to which the Board's powers have been delegated. (Subsection (d) (5) of the 1943 act, see § 1608.801–4.) Renegotiation will initially be conducted by the Departments in all cases, except for instances, if any, in which the Board may determine otherwise. (See § 1602.200 and following.) The powers, duties and discretion of the Board to conduct renegotiation were delegated to the Secretaries of the Departments on February 26, 1944. (See § 1608.821–1.) [RR 131.4]

§ 1601.131–5 *Review by the Board.* The Board may, in its discretion, either upon its own motion or at the request of the contractor or subcontractor, review any determination by order made by any officer or agency to which its powers have been delegated. The Board's determination may be less than, equal to, or greater than the determination reviewed. (Subsection (d) (5) of the 1943 act, see § 1608.801–4 and also Part 1606, Subpart B). [RR 131.5]

§ 1601.132 *War Department organization.* [RR 132]

§ 1601.132–1 *Organization and functions of War Department Price Adjustment Board.* The Renegotiation Division has been established by the Commanding General, Army Service Forces, as a Staff Division under the supervision of the Director of Materiel. The War Department Price Adjustment Board has been organized within the Division. The Chairman and members of the Board are appointed by the Commanding General, Army Services Forces, with the approval of the Under Secretary of War. The Chairman serves also as Director of the Renegotiation Division. [RR 132.1]

§ 1601.132–2 *Organization and functions of War Department Price Adjustment Sections.* There has been established a Price Adjustment Section in each of the Technical Services of the Army Service Forces and in the Army Air Forces. The Army Services Forces have Sections in the Technical Services of Chemical Warfare, Engineers, Ordnance, Quartermaster, Signal Corps, Surgeon General, and Transportation. With the exception of the Price Adjustment Section of Chemical Warfare, located in Baltimore, the main Sections of the Technical Services are located in Washington. Headquarters for renegotiation in the Army Air Forces are shared by Washington and Wright Field, Dayton, Ohio. District Price Adjustment Sections have been established by the Technical Services and the Army Air Forces at various procurement centers, and this decentralization allows renegotiation to be conducted close to the location of the company involved. In the office of the War Department Power Procurement Officer, there has been established an Utilities Price Adjustment Section [RR 132.2]

§ 1601.133 *Navy Department organization.* [RR 133]

§ 1601.133–1 *Navy Price Adjustment Board.* The Secretary of the Navy has established the Navy Price Adjustment Board to conduct renegotiation under the supervision of the Chairman of the Board. The Board has four divisions located in Washington, New York, Chicago and San Francisco, respectively. [RR 133.1]

§ 1601.133–2 *Services and Sales Renegotiation Section.* In the Office of the General Counsel, Navy Department, there is established a Services and Sales Renegotiation Section which specializes in the renegotiation of sales agents and brokers. This section has its headquarters in Washington and divisional offices in Washington, New York, Chicago and Los Angeles. [RR 133.2]

§ 1601.134 *Treasury Department Price Adjustment Board.* The Treasury Department has established the Treasury Department Price Adjustment Board in the Procurement Division. The office of the Board is located in Washington. [RR 134]

§ 1601.135 *Maritime Commission Price Adjustment Board.* The Maritime Commission has established the Price Adjustment Board of the Maritime Commission. The office of the Board is located in Washington. [RR 135]

§ 1601.136 *War Shipping Administration Price Adjustment Board.* The Administrator of the War Shipping Administration created a Price Adjustment Board within the War Shipping Administration and charged the Board with the responsibility of conducting renegotiations. The office of the Board has been established in New York City, since this location is in close proximity to the great majority of the contractors of the War Shipping Administration. [RR 136]

§ 1601.137 *RFC Price Adjustment Board.* The boards of directors of Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation and Rubber Reserve Company have established the RFC Price Adjustment Board. The office of this Board is located in Washington, D. C. [RR 137]

§ 1601.138 *Joint Price Adjustment Board.* The Joint Price Adjustment Board has authority, delegated by the Secretaries, to adopt statements of purposes, principles, policies, and interpretations, under the Renegotiation Act of 1942. The Joint Price Adjustment Board has no authority with respect to renegotiation for fiscal years ending after June 30, 1943. [RR 138]

§ 1601.139 *Addresses.* Addresses of the various Price Adjustment Boards and Sections dealing with renegotiation under the Renegotiation Act of 1943 are set forth in § 1607.791 and following. [RR 139]

SUBPART D—RELATION OF RENEGOTIATION ACT AND ROYALTY ADJUSTMENT ACT CONCERNING PATENTS

§1601.140 *Scope of subpart.* This subpart deals briefly with the Royalty Adjustment Act (Public Law 768, 77th Congress, approved October 31, 1942). [RR 140]

§ 1601.141 *Royalty Adjustment Act.* (a) Under Public Law 768, 77th Congress, approved October 31, 1942, whenever an invention, patented or unpatented, is manufactured or used for the United States, with license from the owner, and such license provides for the payment of royalties at rates or amounts "believed to be unreasonable or excessive by the head of the Department or agency of the Government which has ordered such manufacture, use," etc., the head of the Department concerned shall so notify the licensor and licensee. Within a reasonable time thereafter he shall "fix and specify such rates or amounts of royalties, if any, as he shall determine are fair and just, taking into account the conditions of wartime production" and shall authorize the payment thereof by the licensee to the licensor. Under the statute the licensee must not thereafter pay to the licensor or charge to the United States a royalty in excess of that specified in the order, and the licensor's sole and exclusive remedy for royalties in excess thereof is by suit in the Court of Claims or in such district courts as have concurrent jurisdiction.

(b) The statute further provides that: "Nothing herein contained shall be deemed to preclude the applicability of section 403 of Public Law 528, 77th Congress (the Renegotiation Act of 1942), as the same may be heretofore or hereafter amended so far as the same may be applicable." [RR 141]

§ 1601.142 *Patent licenses subject to renegotiation.* Patent licenses granted to the United States and those granted to Departmental contractors or subcontractors are subject to renegotiation. (See §§ 1603.334–3 and 1603.388–1.) [RR 142]

§ 1601.143 *Allowance of royalties as costs.* The allowance of royalties under patent licenses as costs in renegotiation and the effect given to determinations under the Royalty Adjustment Act are discussed in § 1603.388–1. [RR 143]

PART 1602—PROCEDURE FOR RENEGOTIATION

SUBPART A—ASSIGNMENTS FOR RENEGOTIATION AND CANCELLATIONS

SUBPART A—ASSIGNMENTS FOR RENEGOTIATION AND CANCELLATIONS

§ 1602.201 *In general.* [RR 201]

§ 1602.201–1 *Necessity for assignment.* No Department or Service will conduct renegotiation proceedings with any contractor or subcontractor unless and until an assignment for that purpose has been issued on behalf of or is confirmed by the War Contracts Board. This provision is designed to promote orderly procedure through avoidance of duplication of activities as well as by assuring to the extent possible that renegotiation proceedings are conducted by the appropriate Department or Service. Notwithstanding the foregoing, in the absence of specific action by way of disaffirmance by the War Contracts Board, a renegotiation proceeding, conducted by a Department to which a general delegation of authority has been issued by the War Contracts Board, shall not be invalidated by reason of the fact that an assignment of the particular case had not been duly or properly issued. Assignments issued after the conclusion of a renegotiation proceeding shall be of the same force and effect as if issued at any time prior thereto. [RR 201.1]

§ 1602.201–2 *Effect of assignment.* The issuance of an assignment shall evidence the authority and duty of the Department or Service to which the assignment is issued to conduct statutory renegotiation with the contractor thereby assigned on an overall basis with respect to the aggregate of the amounts received or accrued during the fiscal year to which the assignments relates; *Provided, however,* That upon request of the contractor, pursuant to subsection (c) (1) of the 1943 act, the Department or Service to which the assignment is issued may, in its discretion, agree to renegotiate with respect to amounts received or accrued under one or more contracts or subcontracts. [RR 201.2]

§ 1602.201–3 *Effect of assignments issued on behalf of the Joint Board.* All assignments for renegotiation heretofore or hereafter issued in the name of the Joint Price Adjustment Board, through the Assignments and Statistics Branch of the Renegotiation Division, A. S. F., are hereby ratified, approved and confirmed with the same force and effect as if they had been originally issued by the War Contracts Board. [RR 201.3]

§ 1602.201–4 *Authority in assignment matters.* The Assignments and Statistics Branch, Renegotiation Division, A. S. F., has been authorized by the War Contracts Board to act on its behalf in the issuance of assignments, reassignments, and cancellations of assignments. The Assignments and Statistics Branch will discharge its functions subject to such policies as may be established and directions given from time to time by the War Contracts Board but no assignment, reassignment or cancellation of assignment issued by the Assignments and Statistics Branch shall be deemed unauthorized or invalid unless specifically revoked by action of the War Contracts Board. The authority mentioned herein as conferred upon the Assignments and Statistics Branch is deemed to extend not only to the permanent staff of said Branch but also to persons who may from time to time be detailed by any Departmental Board to work with the staff of the Branch. [RR 201.4]

§ 1602.201–5 *Control of assignments.* A system for the recording and control of assignments will be maintained by the Assignments and Statistics Branch. It will operate with relation to the number of individual contractors assigned, each company whether or not a subsidiary or affiliate of another being represented by a separate assignment and assignment number. Joint ventures will be represented by a single assignment; separate assignments will not be issued for the individual members of a joint venture unless they hold, independently of the joint venture, other contracts subject to renegotiation. Statistical reports of the final results of renegotiation will, however, be based on the number of completed agreements regardless of how many assignments may be represented thereby. As a part of the system established for the recording and control of assignments, the Departments and Services will use the forms appearing in §§ 1607.705 and 1607.706. [RR 201.5]

§ 1602.201–6 *Communications.* Communications relating to administrative matters in connection with assignments, reassignments and cancellation of assignments should be addressed to War Contracts Price Adjustment Board, Assignments and Statistics Branch, Room 3D 573, The Pentagon, Washington 25, D. C. [RR 201.6]

§ 1602.202 *Basis of assignment.* [RR 202]

§ 1602.202–1 *In general.* Assignments will ordinarily be made to the Department or Service believed to have the predominant interest in the assigned contractor's renegotiable business, but assignments will be made on the basis of industry or product classification in those cases where it is believed that such action will promote efficiency of renegotiation procedure. Assignments may also be determined by the existence of intercompany affiliations or transactions and, in exceptional instances, by considerations of geographic convenience. [RR 201.1]

§ 1602.202–2 *Product classification.* The War Contracts Board recognizes that in many cases it is advantageous to assign concerns which produce the same or similar products to the same Department or Service. Assignments on the basis of product classification are authorized particularly with respect to concerns producing products as to which one or more of the Departments or Services have the principal overall procurement interest or have acquired specialized experience in renegotiation. Departments and Services should suggest reassignment of contractors when, because of the nature of their products, it appears that efficiency of renegotiation procedure would be promoted thereby. Such reassignments should be suggested notwithstanding the fact that the predominant interest in the particular contractor's business may lie with the Department or Service suggesting the reassignment (see § 1602.205–1 and form in § 1607.703–3). [RR 202.2]

§ 1602.202–3 *Brokers and agents.* Brokers and agents subject to renegotiation by virtue of subsection (a) (5) (B) of the 1943 act and machine tool dealers will ordinarily be assigned to the Services and Sales Renegotiation Section, Procurement Legal Division, Office of the Under Secretary of the Navy, with the exception of those engaged in the sale of textiles and foodstuffs, who will ordinarily be assigned to the Price Adjustment Section of The Quartermaster General. [RR 202.3]

§ 1602.203 *Selection of contractors for assignment.* [RR 203]

§ 1602.203–1 *Contractors previously assigned.* Generally contractors who were assigned for 1942 fiscal years have been assigned for 1943 fiscal years to the same Department or Service which held the 1942 assignment. Those assignments which were issued prior to the effective

date of the 1943 act on behalf of the Joint Board have been confirmed by the War Contracts Board. Such assignments are subject to reassignment on the basis of industry or product classification or because of substantial change in predominant interest. [RR 203.1]

§ 1602.203–2 *Contractors not previously assigned.* In order that unnecessary assignments may be avoided, initial assignments will not ordinarily be made without the prior receipt and consideration by the Assignments and Statistics Branch on behalf of the War Contracts Board of the information required in the appropriate "Standard Form of Contractor's Report" (see §§ 1602.222 and 1607.701). Exceptions to this rule will be made at the request of any Agency authorized to conduct renegotiation upon an indication of urgency in point of time, lack of necessity for preliminary review, or other considerations deemed appropriate. Unless the required preliminary information is available through mandatory filing or otherwise, it will be obtained by the Assignments and Statistics Branch on behalf of the War Contracts Board by causing to be sent to the contractor a "Letter of Preliminary Inquiry" together with the appropriate "Standard Form of Contractor's Report" (see §§ 1602.222, 1607.701 and 1607.702–1). In the event that the contractor fails to make satisfactory response within a reasonable time to the "Letter of Preliminary Inquiry," the case may be assigned for renegotiation to the Department or Service believed appropriate. Should the information required by the "Standard Form of Contractor's Report" be received by the War Contracts Board subsequent to the issuance of the assignment, the assignment may be reassigned or cancelled if such action be found by the War Contracts Board to be appropriate; otherwise, the information will be transmitted to the assignee Department or Service. [RR 203.2]

§ 1602.203–3 *Identification of contractors not previously assigned.* The identification of contractors not previously assigned will be accomplished principally through their filing mandatory financial statements in conformity with the requirements of the first sentence of subsection (c) (5) (A) of the 1943 act (see § 1602.222). The War Contracts Board may use other sources of information. The Departments and Services may suggest to the War Contracts Board, by means of Form 101 (see § 1607.703–1), names of contractors to be considered for assignment at a time earlier than that at which the mandatory financial statements may be received. Such suggestions should be limited to cases as to which there is substantial reason to believe that early institution of renegotiation proceedings is advisable or required. [RR 203.3]

§ 1602.203–4 *Reports as to brokers and agents.* Information coming to the attention of a Department or Service indicating that commissions or other compensation may have been or might be paid or accrued to a broker or agent subject to renegotiation under subsection (a) (5) (B) of the 1943 act or (a) (5) (ii) of the 1942 act will be reported to the Services and Sales Renegotiation Section, Procurement Legal Division, Navy Department, Washington 25, D. C., and to the War Contracts Price Adjustment Board, Assignments and Statistics Branch, Room 3D 573, The Pentagon, Washington 25, D. C. (see § 1602.202–3). [RR 203.4]

§ 1602.204 *Form of assignments.* Assignments will be issued on Form 102 (shown in § 1607.703–2) or by endorsements on Form 101 (see § 1607.703–1) or by other written notification to the assignee Department or Service. [RR 204]

§ 1602.205 *Reassignment of cases.* [RR 205]

§ 1602.205–1 *When cases reassigned.* The War Contracts Board will reassign a case to another Department or Service if it appears that efficiency of renegotiation procedure will be promoted thereby. Such reassignments may be based upon inter-company affiliations or transactions, substantial predominance of interest or the principle of assignment by product classification. Reassignments may be suggested by the Departments, Services, or other Agencies. The use of the form set forth at § 1607.703–3 is recommended for this purpose, and all requests for reassignment shall contain a statement of the name and address of the office at which the file for the fiscal year under review may be obtained. Reassignments may also be initiated by the War Contracts Board or by the Assignments and Statistics Branch of its own motion. A case will not be withdrawn from any Department without that Department's approval except by express direction of the War Contracts Board, nor will a reassignment become effective if objection to such reassignment is filed in writing by a Department with the Assignments and Statistics Branch within 10 days following receipt of such reassignment unless such objection is overruled by action of the War Contracts Board. The Assignments and Statistics Branch may withdraw an assignment from a War Department Service, without its approval. [RR 205.1]

§ 1602.205–2 *Transfer of information on reassignments.* Upon notice that a case has been reassigned, there will be transmitted directly to the Department or Service holding the reassignment all information obtained from the contractor relating to the fiscal period subject to renegotiation. Upon request, the file will be transmitted directly to the field or section office to which the reassignment is made. [RR 205.2]

§1602.206 *Cancellation of assignment.* [RR 206]

§ 1602.206–1 *General.* (a) The War Contracts Board will cancel the assignment of any contractor on the ground that the contractor is not subject to renegotiation or on the ground that it clearly appears that the profits realized by the contractor were not excessive or when clearly appropriate under circumstances disclosed. Ordinarily, assignment will not be cancelled except upon the recommendation or concurrence of the Department or Service to which the assignment was issued.

(b) Cancellations will not be issued in doubtful cases or in the absence of sufficient information in writing upon which an intelligent determination can be based. Representations of fact by contractors, however, will be accepted at full value in the absence of contradictory evidence, and if not obviously subject to question or doubt.

(c) Unless and until a cancellation is issued by the War Contracts Board, the assignee Department or Service is charged with the responsibility of the assignment. Accordingly, pending action upon an application for cancellation, the assignee Department or Service should take any action which may be necessary to preserve the Government's rights against the contractor.

(d) Cancellation of assignment does not constitute a formal clearance of a contractor's responsibilities under the act. If a contractor desires such a clearance, renegotiation must be completed and a clearance issued in the manner hereinafter provided. [RR 206.1]

§ 1602.206–2 *Form for submission of request.* The Department or Service submitting to the War Contracts Board a request for cancellation will accompany such request with a statement in substantially the following form:

> The information submitted herewith has been obtained from the subject contractor. It has been considered and it is believed by this office to be substantially representative of the operations of the contractor for the fiscal period referred to. This office is of the opinion that [1] (excessive profits within the sense of the Renegotiation Act and the principles applicable thereto have not been realized by the contractor during the said period)[1] (aggregate sales by the contractor, and by all persons under the control of or controlling or under common control with the contractor, under contracts with the Departments (as defined in the Renegotiation Act) and subcontracts thereunder, did not exceed the statutory minimum).[1] (Other Reason:) Cancellation of the assignment of the contractor for renegotiation is recommended and requested.
>
> The Contractor's fiscal year ended_____

[RR 206.2]

§ 1602.206–3 *When not subject to act; evidence required.* When cancellation of assignment is sought on the ground that the aggregate sales of the contractor for the fiscal year did not exceed the statutory minimum prescribed by subsection (c) (6) of the 1943 act, the Department or Service requesting the cancellation may:

(a) Submit a statement to that effect on its own responsibility, or

(b) Submit a statement by the contractor in the form appearing in § 1607.704–1, or

(c) Submit a statement of the fact that the contractor has not filed a mandatory financial statement in conformity with subsection (c) (5) (A) of the 1943 act, and a statement of the Department

[1] Insert applicable clause.

or Service to the effect that the requirements of subsection (c)(5)(A) were called to the attention of the contractor preceding the application for the cancellation. [RR 206.3]

§ 1602.206–4 *When no excessive profits; evidence required.* When the cancellation of assignment is sought on the ground that no excessive profits have been realized on renegotiable business, the minimum information required for consideration by the War Contracts Board will ordinarily be that called for by the "Standard Form of Contractor's Report" (see § 1607.701–1) including section B thereof. When necessary, information will be required as to the proper allocation of costs and expenses applicable to renegotiable and other sales. [RR 206.4]

§ 1602.206–5 *Notification.* If the Assignments and Statistics Branch, acting for the War Contracts Board, finds that the evidence submitted is sufficient, notice of cancellation of the assignment will be sent to the Department or Service to which the case is assigned. If there is any difference of opinion concerning the sufficiency of the evidence submitted in connection with an application for cancellation, the matter shall be referred to the War Contracts Board for decision. Use of the form set forth at § 1607.704–2 is authorized for the purpose of advising the contractor of the cancellation of his assignment. [RR 206.5]

§ 1602.206–6 *Reinstatement.* Any case, the assignment of which has been cancelled, may be reinstated if at any later time such action appears appropriate. Such reinstatement may be made by the War Contracts Board on its own motion or at the suggestion of any Department or Service. [RR 206.6]

SUBPART B—PRELIMINARY INFORMATION REQUIRED OF CONTRACTORS

§ 1602.220 *Scope of subpart.* This subpart deals with mandatory filing of financial statements required of the contractor and other preliminary information. [RR 220]

§ 1602.221 *Statutory provision.* Subsection (c) (5) (A) of the 1943 act provides as follows:

(5) (A) Every contractor and subcontractor who holds contracts or subcontracts, to which the provisions of this subsection are applicable, shall, in such form and detail as the Board may by regulations prescribe, file with the Board on or before the first day of the fourth month following the close of the fiscal year (or if such fiscal year has closed on the date of the enactment of the Revenue Act of 1943, on or before the first day of the fourth month following the month in which such date of enactment falls) a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this section. In addition to the statement required under the preceding sentence, every such contractor or subcontractor shall, at such time or times and in such form and detail as the Board may by regulations prescribe, furnish the Board any information, records, or data which is determined by the Board to be necessary to carry out this section. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of them under this subsection, or who knowingly furnishes any such statement, information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than two years, or both.

[RR 221]

§ 1602.222 *Filing of mandatory financial statement.* In accordance with the requirements of the first sentence of subsection (c) (5) (A) of the Renegotiation Act of 1943:

(a) The "Standard Form of Contractor's Report" (as set forth in § 1607.701–1) is hereby prescribed as the form of mandatory financial statement generally required to be filed by contractors and subcontractors.

(b) The "Standard Form of Contractor's Report (For Construction Contractors, Architects and Engineers)" (as set forth in § 1607.701–3) is hereby prescribed as the form of mandatory financial statement required to be filed by contractors and subcontractors principally engaged in the construction business.

(c) The "Standard Form of Contractor's Report (For Agents, Brokers and Sales Engineers)" (as set forth in § 1607.701–5) is hereby prescribed as the mandatory form of financial statement required to be filed by sales agents and others whose principal business falls within the definition of subcontracts as set forth in subsection (a) (5) (B) of the 1943 act.

(d) There is hereby prescribed as the form of mandatory financial statement required to be filed by public utilities (including but not limited to those furnishing gas, electric power, rail, air or water transportation, telegraph, telephone, cable or radio communication) and by steamship operating companies, a statement containing the following:

Name and address of contractor.
Names of companies, if any, under the control of, or controlling, or under common control with the contractor.
Nature of principal business.
Date of expiration of fiscal year.
Balance Sheet, Profit and Loss Statement and Surplus Statement of the contractor for latest completed fiscal year.
Declaration by the contractor that it will furnish such further and additional information as may be required by or on behalf of the War Contracts Board.

Such statement shall be executed on behalf of the contractor by his duly authorized representative and shall contain a certificate that the representations thereby submitted are true and correct to the best of his knowledge and belief. [RR 222]

§ 1602.222–1 *Sufficiency of contents.* (a) Except as hereinafter stated, the forms of "Standard Form of Contractor's Report" are required to be prepared in duplicate in accordance with the instructions which relate to them respectively and which appear in §§ 1607.701–2, 1607.701–4 and 1607.701–6. The Reports are required to comprise all the information and exhibits specified by the forms and the instructions. However, if all the information called for by the appropriate "Standard Form of Contractor's Report" has been furnished by the contractor to an Agency authorized to conduct renegotiation proceedings under the 1943 act, the contractor may complete the "Standard Form of Contractor's Report" by incorporating by reference the information so furnished and making a specific statement of the time and place of such filing. In such case, the fact that the information has been received will be certified to by the renegotiating Agency on the copy of the "Standard Form of Contractor's Report" which it will forward to the War Contracts Board within sixty days after the date of receipt of the Report by such Agency. A "Standard Form of Contractor's Report" so prepared and filed wil be deemed to constitute a sufficient compliance with the mandatory filing requirements of this §§ 1602.222 to 1602.222–6 in the absence of a notice of insufficiency sent to the contractor within 90 days after the Report has been filed.

(b) Where a Department to which a contractor has been assigned for renegotiation or the Assignments and Statistics Branch determines that it is not feasible for a contractor to furnish all of the information provided for in the Standard Form of Contractor's Report on or before the date specified in the 1943 act, such contractor may file such report containing such information as he can feasibly supply, which in all cases shall include at least the contractor's balance sheet profit and loss statement and surplus statement for his latest completed fiscal year and shall state in such report that the information not contained therein or such other information as the Department or such Branch may require, will be furnished within such period as the Department or such Branch may designate. In any such case the filing of such a statement on or before the date specified in the act and its acceptance by such Department or such Branch shall constitute compliance by the contractor with the provisions of subsection (c) (5) (A). [RR 222.1]

§ 1602.222–2 *Time for filing.* The mandatory financial statements hereby prescribed shall be filed on or before the first day of the fourth month following the close of the fiscal year of the contractor (or if such fiscal year had been closed on February 25, 1944, on or before the first day of June, 1944, whether or not any demand has been made by the War Contracts Board or by any person on its behalf. [RR 222.2]

§ 1602.222–3 *Place for filing.* Except as stated herein, the mandatory financial statements hereby prescribed shall be filed in duplicate with the War Contracts Price Adjustment Board, Assignments and Statistics Branch, Room 3D 573, The Pentagon, Washington 25, D. C. Where the contractor has received a "Letter of Preliminary Inquiry" (see § 1602.223) and a "Standard Form of Contractor's Report" from a renegotiating Agency, the mandatory financial statements hereby prescribed shall be filed in duplicate with that Agency. The renegotiating Agency will forward one copy to the War Contracts Board within sixty days after re-

ceipt of the Report by the Renegotiating Agency. [RR 222.3]

§ 1602.222–4 *Availability of forms.* Copies of the forms above mentioned may be obtained upon request to the Assignments and Statistics Branch or to any of the Price Adjustment Boards or Sections of the several Departments authorized to conduct renegotiation proceedings. [RR 222.4]

§ 1602.222–5 *Effect of filing mandatory financial statements.* The filing of a mandatory financial statement in accordance with the provisions of this § 1602.222 will not relieve any contractor or subcontractor of the duty to furnish such other information, records or data which are determined by the War Contracts Board or its representatives to be necessary to carry out its responsibilities under the act. [RR 222.5]

§ 1602.222–6 *Filing of mandatory financial statements by parent and subsidiary corporations on a consolidated basis.* Parent and subsidiary corporations which constitute an "affiliated group" as defined in subsection (d) of section 141 of the Internal Revenue Code may satisfy the requirements for filing of mandatory financial statements under the first sentence of subsection (c) (5) (A) of the Renegotiation Act of 1943 by filing a "Standard Form of Contractor's Report" on a consolidated basis. When such a consolidated "Standard Form of Contractor's Report" is filed there shall also be filed a "Standard Form of Contractor's Report" for each subsidiary corporation (except as noted below) but any such subsidiary corporation report may be completed by writing thereon a statement that a consolidated report has been filed by the parent company. Where any such subsidiary corporation has not received or accrued during the applicable period any amount whatever under renegotiable contracts with the Departments and subcontracts (i. e., contracts or subcontracts not exempt from renegotiation by contractual provision pursuant to subsection (i) or contracts or subcontracts which are not exempted under subsection (i) of the Renegotiation Act of 1943), no report need be filed by it. [RR 222.6]

§ 1602.223 *Letter of preliminary inquiry.* [RR 223]

§ 1602.223–1 *Unassigned contractors.* The War Contracts Board, through the Assignments and Statistics Branch, may send to contractors and subcontractors who are identified by it as probably subject to renegotiation proceedings (except those who have been previously assigned) a "Letter of Preliminary Inquiry" (see §§ 1607.702–1 and 1607.702–3). Since the form appearing at § 1607.702–1 allows a period of thirty days for answering, it will not be used within 30 days of the time for filing prescribed by the 1943 act. The "Letter of Preliminary Inquiry," sent by the Assignments and Statistics Branch, will be to determine whether or not the contractor should be assigned for renegotiation and to what Department or Service, if any, such assignment should be made. The filing of the "Standard Form of Contractor's Report" will constitute compliance with the requirement for mandatory filing under § 1602.222, if filed within the time prescribed by the 1943 act. [RR 223.1]

§ 1602.223–2 *Assigned contractors.* The Departments and Services may send to contractors who have been assigned to them for 1943 renegotiation the "Letter of Preliminary Inquiry" (see § 1607.702–2) and the appropriate Standard Form of Contractor's Report. In such cases, the filing of the Standard Form of Contractor's Report will constitute compliance with the requirements of mandatory filing under § 1602.222 if filed within the time prescribed by the 1943 act, and, with respect to assigned cases, will enable a determination to be made as to whether further renegotiation proceedings will be necessary. [RR 223.2]

§ 1602.223–3 *Follow-up.* The form appearing at § 1607.702–4 will be used with respect to contractors who have not made response to a "Letter of Preliminary Inquiry" within the time prescribed for filing under subsection (c) (5) (A) of the 1943 act. Such follow-up letters will be sent by the office which sent the "Letter of Preliminary Inquiry" with appropriate variation in signature. [RR 223.3]

§ 1602.224 *Contractor's information and work sheet for renegotiation.* The War Contracts Board, through the Department or Service to which any contractor or subcontractor is assigned, may send to such contractor or subcontractor a form designed to assist him in preparing information when it is contemplated that formal renegotiation proceedings will be carried to conclusion (see § 1602.242). The form prepared for the use of supply contractors is the "Contractor's Information and Work Sheet for Renegotiation" (see § 1607.722) and that for construction contractors, architects and engineers is the "Construction Contractors, Architects, and Engineers Information and Work Sheet for Renegotiation" (see § 1607.724). [RR 224]

SUBPART C—PREPARATION FOR RENEGOTIATION

§ 1602.230 *Scope of subpart.* This subpart contains instructions relating to preparation for renegotiation. [RR 230]

§ 1602.231 *Negotiators.* [RR 231]

§ 1602.231–1 *Disqualification of negotiator.* Renegotiation will not be carried on by a negotiator on behalf of the Government, who is, or within the preceding five years has been, an officer, director, partner, employee or in control of the contractor being renegotiated. A member of a price adjustment board who is, or within the preceding five years has been, an officer, director, partner, employee or in control of the contractor being renegotiated, will not sit as a member of such board while it is passing on the case of such contractor. Each negotiator, or member of a price adjustment board, will determine whether these provisions bar him from acting in a case. Other circumstances may exist which would make it inadvisable for a negotiator or member of a price adjustment board to act in a case and such situations can best be determined by the negotiator or member involved. Accordingly, a negotiator or member of a price adjustment board has the responsibility of determining whether he should refrain from acting in a particular case under the circumstances. [RR 231.1]

SUBPART D—CONDUCT OF RENEGOTIATION

§ 1602.240 *Scope of subpart.* This subpart includes instructions on the conduct of renegotiation. [RR 240]

§ 1602.241 *Commencement of renegotiation.* Renegotiation proceedings are commenced by the mailing, by registered mail, of reasonable notice of the time and place of a conference to be held with respect to the renegotiation. (See § 1608.801–3.) A form which may be used for such purpose is set forth in § 1607.721. Such notice shall be given in all cases of renegotiations with respect to fiscal years ending after June 30, 1943, and in the absence of unusual circumstances such notice shall be given prior to the time a conference is held for the purpose of discussing the refund. In any case where a conference is unnecessary by reason of the progress which has been made in renegotiation prior to the sending out of the formal notice, the notice should be sent, but the conference can be waived by agreement with the contractor. [RR 241]

§ 1602.242 *Data presented by contractor.* The contractor should be prepared to present all the factual data pertinent to the consideration of his case. In this connection, reference is made to the information required in the mandatory financial statement (§ 1602.220 and following) and to other chapters hereof. Suitable forms, designated to help contractors in assembling data of significance in renegotiation, are set out at §§ 1607.722 and 1607.724. These forms are not mandatory, but indicate the type of information required of a contractor to supplement what he supplied on the mandatory financial statement (see § 1607.701). Manufacturers and supply contractors should use the "Contractor's Information and Work Sheet for Renegotiation" (see § 1607.722), and construction contractors, architects and engineers should use the "Construction Contractors, Architects, and Engineers Information and Work Sheet for Renegotiation" (see § 1607.724). (See also § 1602.224.) [RR 242]

§ 1602.243 *Process of renegotiation.* The general principles applicable to the conduct of renegotiation and the process of arriving at a renegotiation determination are discussed in § 1604.402–3. [RR 243]

SUBPART E—COMPLETION OF RENEGOTIATION

§ 1602.250 *Scope of subpart.* This subpart refers to the steps taken upon the completion of a renegotiation resulting in a voluntary agreement, to the administration of agreements and unilateral determinations, and to progress reports. [RR 250]

§ 1602.251 *Preparation of agreement.* When a tentative settlement has been agreed upon, the Department conducting the renegotiation will promptly prepare a form of agreement (see Subpart A of Part 1605). [RR 251]

§ 1602.252 *Preparation of statement to contractor.* Subpart B of Part 1605 deals with the furnishing of a statement to the contractor. [RR 252]

§ 1602.253 *Administration of agreements.* Administration of voluntary agreements or of unilateral determinations by the Department to which the contractor was assigned for renegotiation is referred to in § 1605.509. [RR 253]

§ 1602.254 *Progress reports.* (a) The organization designated as the assignments and Statistics Branch of the War Department Price Adjustment Board will be regarded by the War Contracts Board as the official source of information as to the Government's over-all progress of renegotiation. This Branch will in effect actually serve the War Contracts Board although constituted in the Renegotiation Division, Army Service Forces. [RR 254]

(b) The several Departmental Boards and Services will prepare and furnish to the Assignments and Statistics Branch as at the close of business each Friday the appropriate Weekly Progress Report (Form SPRA–O in the case of Departments, see §§ 1607.751–1 and 1607.751–2, and Form SPRA I in the case of Services, see §§ 1607.751–3 and 1607.751–4). On the basis of the information supplied in the Weekly Progress Reports of the several Departments, the Assignments and Statistics Branch will prepare bi-weekly Status of Renegotiation Reports (Form SPRA I–BB) and Operations Reports (Form SPRA I-CC) and will furnish the same to the War Contracts Board and the Departmental Boards (see §§ 1607.751–6 and 1607.751–8). On the basis of the information supplied in the Weekly Progress Reports of the Services, the Assignments and Statistics Branch will prepare bi-weekly Status of Renegotiation Reports (Form SPRA I-B, set forth in § 1607.751–5) and Operations Reports (Form SPRA I-C, set forth in § 1607.751–7).

(c) The several Departmental Boards will prepare and furnish to the Assignments and Statistics Branch a Departmental Report of Recoveries Effected by Statutory Renegotiation (Form WCP-AB–4, see § 1607.751–9) signed by a member of the Departmental Board submitting the Report. Such Report will be furnished at the times required in the relevant instructions (see § 1607.705–10). [RR 254]

§ 1602.255 *Control of documents.* (a) Renegotiation agreements, reports of renegotiation, records, files, correspondence, memoranda and all other documents containing financial and business information pertaining to renegotiation with specific contractors are the property of the Government of the United States.

(b) Such documents are not to be distributed, nor their contents revealed, to any person having no legitimate right thereto.

(c) Upon transfer or separation from employment in renegotiation, or any other employment in which possession or custody of such documents is authorized, all personnel will return such documents to a responsible official. [RR 255]

PART 1603—DETERMINATION OF RENEGOTIABLE BUSINESS AND COSTS

SUBPART A—FISCAL YEAR BASIS FOR RENEGOTIATION AND EXCEPTIONS

SUBPART B—METHODS FOR SEGREGATING SALES BETWEEN RENEGOTIATIABLE AND NONRENEGOTIABLE BUSINESS

SUBPART C—CONTRACTS AND SUBCONTRACTS WITHIN THE SCOPE OF THE 1943 ACT

SUBPART D—MANDATORY EXEMPTIONS AND EXCLUSIONS FROM RENEGOTIATION

SUBPART A—FISCAL YEAR BASIS FOR RENEGOTIATION AND EXCEPTIONS

§ 1603.301 *Fiscal year basis for renegotiation.* [RR 301]

§ 1603.301–1 *Statutory provisions.* Subsection (c) (1) of the Renegotiation Act of 1943 provides in part:

The Board shall exercise its powers with respect to the aggregate of the amounts received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the Departments and subcontracts, and not separately with respect to amounts received or accrued under separate contracts with the Departments or subcontracts, except that the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the Departments or subcontracts at the request of the contractor or subcontractor.

[RR 301.1]

§ 1603.301–2 *Use of fiscal year basis; in general.* (a) This provision requires the War Contracts Board to renegotiate on a fiscal year basis (or such other period as may be fixed by mutual agreement). It also requires that renegotiation be conducted upon an over-all basis unless the contractor or subcontractor requests, and the War Contracts Board agrees, that such renegotiation be conducted with respect to his contracts and subcontracts separately or as two or more groups.

(b) Generally, renegotiation will be conducted on the basis of the amounts received or accrued by a contractor from his renegotiable contracts and subcontracts for a past fiscal year. Under this method excessive profits are determined by examining the contractor's financial position and the profits from such contracts and subcontracts taken as a whole for a particular fiscal year rather than by separate analysis of each contract or subcontract. This avoids problems of allocation of costs and profits, as between each contract and subcontract, allows the contractor to offset the results of one contract against another and simplifies administration. [RR 301.2]

§ 1603.301–3 *Renegotiation on a completed contract fiscal year basis; construction contracts.* (a) Contractors having construction contracts or subcontracts may have used a completed contract method of accounting for Federal income tax purposes with respect to some or all of such contracts or subcontracts. With respect to the contracts and subcontracts for which the completed contract method of accounting was used, such method of accounting will be followed for all purposes of the Renegotiation Act and the regulations and interpretations promulgated thereunder. In the case of any contract or subcontract for which the completed contract method of accounting is followed, all amounts received or accrued thereunder and all costs paid or incurred with respect thereto will be treated as having been received or accrued or paid or incurred within the fiscal year in which the contract or subcontract was completed.

(b) A contractor who has used the completed contract method of accounting for Federal income tax purposes with respect to some of his construction contracts and subcontracts and who desires the use of such method with respect to his other construction contracts and subcontracts, or a contractor who has not used such method of accounting for Federal income tax purposes with respect to any of his contracts or subcontracts, may, nevertheless, request that the completed contract method of accounting be used for the purposes of renegotiation with respect to all of his construction con-

tracts and subcontracts completed or terminated within the fiscal year. If such request is approved by the Department to which the contractor has been assigned, the contractor will be deemed to have adopted the completed contract method of accounting with respect to such contracts and subcontracts, for the purposes of renegotiation. The form to be used in making such a request is set forth in § 1607.723. The Department concerned will not approve such request unless (1) it appears that the effect of granting such a request would not be inconsistent with the general purposes of the act, (2) the contractor agrees to all the terms and conditions stated in § 1607.723, and (3) the request relates to all construction contracts and subcontracts completed or terminated within the fiscal year being renegotiated. If such request is approved, the Renegotiation Act, and the regulations and interpretations promulgated thereunder other than those dealing with the allowance of tax credits, will be applied in all respects to such construction contracts and subcontracts and the profits derived therefrom as though, with respect to them, the contractor had used the completed contract basis of accounting in keeping his books and in making his Federal income tax return. The $500,000 fiscal-year exemption provided in subsection (c) (6) of the Renegotiation Act, the interpretation relating to the $500,000 "floor" as set forth in § 1603.348–3, as well as all other provisions of the 1943 act, will be applied in like manner. The contracts or subcontracts renegotiated on the completed contract basis are subject to such separate treatment as may be required because of the different types of contracts involved (such as fixed-price, cost-plus-fixed fee, price-minus contracts, contracts subject to contractual or statutory fixed profit limitations and contracts providing for redetermination or revision of the contract price during the life of the contracts). In this connection, attention is directed to §§ 1603.306 and 1603.307.

(c) If the completed contract method of accounting is used for the purposes of renegotiation for any fiscal year, and if a different method of accounting was used for the purposes of renegotiation for a prior fiscal year, the provisions of § 1603.302 will be considered, and any amounts received or accrued and any costs paid or incurred which were included in such previous renegotiation will be excluded from consideration. The authority conferred by this § 1603.301–3 upon the Department to which a contractor has been assigned for renegotiation to approve a request that the completed contract method of accounting be used for the purposes of renegotiation is not limited by the provisions of § 1603.301–4. [RR 301.3]

§ 1603.301–4 *Renegotiation of completed or terminated contracts on a completed contract basis where a contractor is out of war business.* Completed contract renegotiation under the principles set forth in §§ 1603.301–3 and 1603.301–6 may also be granted upon the request of a contractor or subcontractor although certain amounts received or accrued under one or more of the contracts or subcontracts involved have been included in renegotiation for a prior fiscal year: *Provided,* That any amounts received or accrued and costs paid or incurred which have been included in any previous renegotiations shall be excluded from consideration in the completed contract renegotiation. No such request shall be granted, however, unless (a) only a limited number of contracts and subcontracts are involved, (b) all such contracts and subcontracts have been completed or terminated at the time renegotiation takes place, and (c) the contractor or subcontractor then holds no additional contracts or subcontracts subject to renegotiation. If more than five contracts or subcontracts are involved in such a case, express approval of the War Contracts Board must be obtained before granting the contractor's request. In all such cases the final agreement must contain appropriate provision for the protection of the interest of the Government in the event the contractor enters into contracts or subcontracts for additional renegotiable business at some subsequent time during the latest fiscal period of the contractor with which the completed contract renegotiation is concerned. [RR 301.4]

§ 1603.301–5 *Ascertainment of date of completion of contracts.* For the purposes of § 1603.301 a contract shall be regarded as having been completed when the performance by the contractor thereunder has been completed unless there are exceptional circumstances or contractual provisions which justify or require the application of a different principle in a particular case. [RR 301.5]

§ 1603.301–6 *Contracts to be included in a completed contract renegotiation.* Subject to the provisions of § 1603.301–3 (b) with respect to separate treatment of different types of contracts, contracts and subcontracts to be renegotiated on a completed contract basis will be renegotiated as a group when completed within a given fiscal year, but contracts completed in one fiscal year may not be grouped with contracts completed in a different fiscal year. In the event that contracts to be renegotiated on a completed contract basis are uncompleted at the termination date of the 1943 act, the Department to which the contractor is assigned for renegotiation will be guided by the provisions of § 1603.302 as well as by the principles of subsection (h) of the 1943 act (see § 1603.370 and following). [RR 301.6]

§ 1603.301–7 *Renegotiation of related contracts.* Contracts and subcontracts under which architectural, engineering or management services or any combination thereof are rendered and which are related to a contract or subcontract which is renegotiable on a completed contract basis under the regulations in this part may also be renegotiated on a completed contract basis. [RR 301.7]

§ 1603.302 *Differing accounting methods.* Should there be employed a method of computing profit in a renegotiation for any fiscal year which is different from that employed in renegotiation for the fiscal year immediately preceding, the Department conducting the renegotiation must make adequate provision in the agreement or otherwise so that renegotiable business will not escape renegotiation because of the change. The interest of the Government in connection with the year which is the subject of renegotiation and for future years must also be protected and generally no item of cost which has been allowed in a previous renegotiation should be allowed in any subsequent renegotiation. These principles apply to renegotiation conducted with respect to a fiscal year, to a period other than a fiscal year or on a contract-by-contract basis. Under ordinary circumstances a contractor will be renegotiated on the same basis as that used for the determination of his income for Federal income tax purposes and, where a contractor requests and is allowed to renegotiate on some other basis, he will be required to agree that future renegotiations will be conducted on the same basis unless the War Contracts Board approves a variation of this proceeding by reason of unusual circumstances in a particular case. [RR 302]

§ 1603.303 *Long-term ship construction contracts and certain types of utility contracts.* The renegotiation of long-term ship construction contracts and of certain classes of utility contracts which are subject to renegotiation by reason of their particular size or character (see § 1608.842) may with the consent of the contractor be conducted on such basis as, in the opinion of the Department conducting the renegotiation, will be most appropriate for the determination of excessive profits. In determining such basis, consideration will be given to the basis of renegotiation used by such Department in prior renegotiations where the contractor concerned has been renegotiated for a prior period or with respect to other contracts. [RR 303]

§ 1603.304 *Cost-plus-fixed-fee contracts.* [RR 304]

§ 1603.304–1 *Separate consideration.* The financial and other data upon which the renegotiation is based must clearly reflect the financial results of performance of cost-plus-fixed-fee contracts and subcontracts separately from the financial results of performance of other contracts and subcontracts. Accordingly, the amounts received or accrued and costs paid or incurred on such cost-plus-fixed-fee contracts must be segregated from such amounts relating to other renegotiable contracts and subcontracts, so that an appropriate appraisal of the profits from such cost-plus-fixed-fee contracts and subcontracts can be made. [RR 304.1]

§ 1603.305 *Joint venture contracts.* Where two or more parties enter into an arrangement for the performance jointly of one or more projects, the combination resulting from such arrangement is commonly referred to as a "joint venture." Such a joint venture is regarded as an entity which, with respect to its contracts or subcontracts within the

scope of the Renegotiation Act of 1943, is a "contractor" or "subcontractor" within the meaning of the act. Therefore, the joint venture is renegotiated with respect to its renegotiable contracts and subcontracts without regard to other contracts or subcontracts which may be held by the members of the joint venture. [RR 305]

§ 1603.306 *Treatment of contracts with fixed profit limitations.* [RR 306]

§ 1603.306–1 *Included in renegotiation.* Certain contracts with various Departments, particularly the Navy Department, Maritime Commission, and War Shipping Administration, are subject to provisions limiting the contractor's profit thereunder to a fixed percentage of the total sales or contract prices or costs within the scope of such limitation. Such contracts will be included in renegotiation but the agreement made therein shall reserve to the Department having this independent duty, the corresponding right to determine and collect profits, if any, in excess of such limitation. [RR 306.1]

§ 1603.306–2 *Method of renegotiation in such cases.* The contractor's sales or contract prices and costs under contracts subject to such profit limitation shall be included with the sales or contract prices and costs of his other renegotiable business, unless segregation shall be deemed necessary by a Department. Where the contract has not been finally audited the contractor shall be allowed to set up and shall be required to maintain an actual reserve to cover his liability in connection with such profit limitation in an amount by which the contractor's profit within the scope of such limitation is estimated to exceed the maximum allowable profit thereunder. The provision for the establishment of the reserve will be treated as a reduction in net profits rather than an increase in costs or a reduction of sales. This reserve should be allowed on the condition that the contractor will report to the Department conducting the renegotiation and will pay to the United States as excessive profits in renegotiation so much of such reserve as he is not required to repay under such profit limitation and as shall be required to be so paid by such Department. [RR 306.2]

§ 1603.307 *Treatment of contracts with price adjustment provisions.* [RR 307]

§ 1603.307–1 *Subject to renegotiation.* Certain contracts provide for escalation, redetermination or revision of the contract price during the life of the contract. These contracts are subject to renegotiation unless otherwise exempted, but their provisions necessitate special treatment. Except for certain shipbuilding contracts referred to in § 1603.307–3, the method of handling certain situations arising in connection with such contracts on renegotiation is discussed in § 1603.307–2. [RR 307.1]

§ 1603.307–2 *Method of renegotiation.* (a) Upon over-all renegotiation involving such contracts, if the price for the period under review is expected to be retroactively reduced after the completion of the renegotiation proceedings, then in determining excessive profits the contractor should be permitted to set up a reasonable reserve to cover the estimated refund under the contract for the period under review. Similarly, if the contract clause is expected to result in a retroactive upward revision of the price for the period under review, an allowance therefor should be made on the basis of reasonable estimates and included in the renegotiable income of the contractor.

(b) In making such estimates the contracting officer should be consulted. Whenever the retroactive adjustment under such clauses will substantially affect the contractor's over-all profits for the period covered by renegotiation, production experience will generally be sufficient to permit a reasonable estimate of the amount of the probable refund or additional payment.

(c) Where the retroactive effect of the price adjustment clause would materially affect the basis of the settlement, but cannot be reasonably estimated, the matter may in certain instances be handled by disregarding the operation of the clause in over-all renegotiation and by amending the contract provision to make any retroactive adjustment inapplicable to the period covered by renegotiation, as is the case under the more recent forms of such price adjustment clauses.

(d) This section does not cover the method of handling certain shipbuilding contracts referred to in § 1603.307–3. [RR 307.2]

§ 1603.307–3 *Certain shipbuilding contracts.* Certain shipbuilding contracts with the Navy Department and Maritime Commission provide for escalation, price savings, and for redetermination or revision of the contract price during the life of the contract and the Department with which the contract is made is charged with the duty of auditing and determining the amount to be paid the contractor for work performed under such contracts. Furthermore, under regulations of the Maritime Commission when two or more vessels are constructed under separate contracts as a single undertaking the profit or loss resulting from performance of the single undertaking may be allocated equally to each vessel. Such contracts are subject to renegotiation unless otherwise exempt, but their provisions necessitate special treatment with respect to which the Department with which the contracts are made should be consulted. [RR 307.3]

§ 1603.308 *Treatment of receipts or accruals under termination claims.* [RR 308]

§ 1603.308–1 *Subject to renegotiation.* Receipts or accruals under a determination made under the Contract Settlement Act of 1944, or a settlement made under such act, or otherwise, on account of any termination claim under a contract or subcontract are subject to renegotiation unless (a) received or accrued with respect to a terminated contract or subcontract which is exempt or has been exempted from renegotiation or, (b) the determination or the settlement agreement is exempted from renegotiation pursuant to proper authority. [RR 308.1]

§ 1603.308–2 *When received or accrued.* For purposes of renegotiation amounts payable to a contractor or subcontractor on account of any termination claim under a contract or subcontract will be deemed to have been received or accrued to the extent, and in the fiscal year for which, such amounts are estimated, upon the basis of the circumstances existing at the time of renegotiation, to be includible in the computation of taxable income under the Internal Revenue Code (see Treasury Decision 5405 and Bureau of Internal Revenue Mimeograph No. 5766 reproduced herein at §§ 1608.852–5 and 1608.852–6). Renegotiation will not be postponed or delayed pending the settlement of a termination claim whether by a "no-cost" waiver, or otherwise. [RR 308.2]

§ 1603.308–3 *Separate consideration.* Any contractor may, and in any case in which the aggregate of the amounts received or accrued under contracts and subcontracts includes any substantial amount on account of termination claims, the contractor shall be required to, reflect in the financial and other data upon which the renegotiation is based the receipts or accruals on account of termination claims separately from other receipts or accruals subject to renegotiation. Such segregation may be required to be made in such general or such detailed manner as the renegotiating agency may deem necessary. [RR 308.3]

§ 1603.309 *Renegotiation of parent and subsidiaries on consolidated basis.* [RR 309]

§ 1603.309–1 *When authorized.* Renegotiation of parent and subsidiary companies may, in the discretion of the Department conducting the renegotiation, be conducted on a consolidated basis whether or not the parent and subsidiaries constitute an "affiliated group" as defined in subsection (d) of section 141 of the Internal Revenue Code. [RR 309.1]

§ 1603.309–2 *Definition of "affiliated group".* Section 141 (d) of the Internal Revenue Code is as follows:

(d) Definition of "Affiliated Group." As used in this section, an "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if—

(1) Stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class of the nonvoting stock of each of the includible corporations (except the common parent corporation) is owned directly by one or more of the other includible corporations; and

(2) The common parent corporation owns directly stock possessing at least 95 per centum of the voting power of all classes of stock and at least 95 per centum of each class of the nonvoting stock of at least one of the other includible corporations.

As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

[RR 309.2]

§ 1603.310 *Consolidated basis in cases of common ownership.* [RR 310]

§ 1603.310–1 *When authorized.* If two or more business enterprises are under common control as a result of common ownership, rather than as a result of parent-subsidiary relationship, renegotiation on a consolidated basis may be appropriate if:

(a) Such consolidation is reasonably necessary for the protection of the interests of the Government. This is especially likely if one or more of such enterprises is a subcontractor of another of the enterprises commonly owned; and

(b) The extent of the common ownership is such that consolidation for renegotiation purposes is not, in the opinion of the Department conducting the renegotiation, inequitable to minority interests in one or more of the enterprises.

It is not essential that the interests of the common owners be identical in extent or nature in each of the enterprises commonly owned. [RR 310.1]

§ 1603.311 *Allocation of excessive profits in cases of consolidated renegotiation.* (a) In renegotiation on a consolidated basis, careful scrutiny will be given to the methods employed in segregating costs as well as income as between the corporations or enterprises included in the consolidated renegotiation, particularly where the type of business conducted by one is different and distinct from the type of business conducted by the others in the consolidated group.

(b) Excessive profits must be allocated among the corporations or enterprises included in the renegotiation, and the renegotiation agreement must disclose the allocation. If excessive profits have been realized and the renegotiation agreement merely imposes liability generally on the entire consolidated group for the profits found to be excessive, without fixing the separate liability, then the members of the group may not be allowed a deduction from their income for Federal tax purposes for the amount of excessive profits to be eliminated under the agreement, or a tax credit under section 3806 of the Internal Revenue Code. The excessive profits must be so allocated even though some or all of the members of the consolidated group participate in filing a consolidated Federal tax return. (See §§ 1604.444 (b) and 1607.741–2 (b).)

(c) The form and method of execution of the renegotiation agreement in the case of a consolidated renegotiation is described in § 1605.502–13.

(d) To make such allocations of the excessive profits, a review of the unconsolidated financial statement of each member of the group must be made, and the record must show a proper basis for the allocation. [RR 311]

§ 1603.312 *Where consolidated basis not used.* Whenever parent and subsidiary companies are renegotiated not on a consolidated basis but separately, renegotiations with the individual members of the controlled group should be conducted concurrently if possible. [RR 312]

SUBPART B—METHODS FOR SEGREGATING SALES BETWEEN RENEGOTIABLE AND NON-RENEGOTIABLE BUSINESS

§ 1603.320 *Scope of subpart.* The Renegotiation Act prescribes what types of contracts are subject to renegotiation. In practice, the difficulty of tracing and identifying all sales with exactness, especially under lower tier subcontracts, often necessitates the use of general methods of segregating renegotiable and non-renegotiable business and expenses. This subpart deals with such methods of segregation, and Subparts C, D and E of this part discuss in detail the principles for determining whether particular contracts are subject to the act or exempt. [RR 320]

§1603.321 *Responsibility for segregation.* [RR 321]

§1603.321–1 *Making of segregation.* The contractor should in all cases make the segregation of sales and the allocation of costs and expenses between renegotiable business and non-renegotiable business. The contractor should submit a signed statement of this segregation and allocation, explaining and justifying the methods used. The segregation and allocation must be satisfactory to the Department conducting the renegotiation. [RR 321.1]

§ 1603.321–2 *Suggested methods.* The following sections outline general principles which may aid in determining an equitable method of segregation. [RR 321.2.]

§1603.322 *Methods of segregating sales.* [RR 322]

§ 1603.322–1 *General approach.* (a) Often, there is more than one method available for segregating sales between renegotiable business and non-renegotiable business. In such cases the methods available for equitably allocating the cost of sales should be carefully considered before a final determination is made as to the method to be used in segregating sales.

(b) In determining whether specific contracts or subcontracts are subject to renegotiation, the principles stated in subparts C, D and E of this part will be followed.

(c) Where specific segregation is possible, this should be done in accordance with § 1603.322–2. Where this is not feasible, the methods discussed in §§ 1603.322–3 to 1603.322–6 should be used. [RR 322.1]

§ 1603.322–2 *Specific segregation.* (a) Certain sales can be specifically classified as subject to renegotiation, such as sales known to be under:

(1) Prime contracts which are not exempt.

(2) Non-exempt subcontracts under specific non-exempt prime contracts.

(3) Non-exempt subcontracts for specific products, the end use of which is known to be within the scope of the Renegotiation Act, such as tank parts, cartridge disks, etc.

(b) Other sales can be specifically classified as not subject to renegotiation, such as sales known to be under:

(1) Prime contracts which by their terms or the application of an exemption provided by or established pursuant to subsection (i) of the Renegotiation Act are exempt or have been exempted.

(2) Subcontracts known to be under prime contracts or subcontracts to which, in either case, a mandatory exemption provided by subsection (i) (1) of the Renegotiation Act is applicable.

(3) Subcontracts to which a mandatory exemption or a discretionary exemption provided by or established pursuant to subsection (i) of the Renegotiation Act is applicable.

(4) Agreements and purchase orders for products, the end use of which is known to be outside the scope of the Renegotiation Act. For example, the sale of safety clothing to a steel mill for the use of its employees (see § 1603.333–4 (b)) or the sale of building material to a contractor for use in the construction of a privately owned home (see § 1603.335–2 (d)).

(c) The contractor should indicate the basis of classification used and should state the principles applied thereto. (See § 1603.322–1 (b).) [RR 322.2]

§ 1603.322–3 *Sales not susceptible of specific segregation.* (a) The contractor may not be able specifically to identify all or part of his sales as subject or not subject to renegotiation. Such sales may include sales to retailers, wholesalers, jobbers, fabricators, assemblers and others selling for both war and commercial use. The identity of the original product may be lost in processing. The contractor's sales and cost of sales records may be in such form that specific segregation cannot be made.

(b) These types of sales should be classified in such a manner as to permit the application to them of certain principles, percentages, etc., calculated to provide a reasonable and equitable division between renegotiable business and non-renegotiable business. (See § 1603.333–5.) [RR 322.3]

§ 1603.322–4 *Types of classification for general segregation.* For the purpose of making a general segregation of sales, they may commonly be classified by:

(a) Industry, customer or customer group.

(b) Product or group of products.

(c) End use classification as shown on reports to the WPB.

(d) Division, department or plant, where the extent to which each division is devoted to business subject to renegotiation can be determined.

(e) Periods of the year, where the percent of business subject to renegotiation varies with the period. [RR 322.4]

§ 1603.322–5 *Applicable basis for percentages of allocation.* When sales have been classified according to § 1603.322–4 such sales may be segregated by applying ratios or percentages based upon general or specific factors such as:

(a) The recognized or estimated extent to which certain products are being used for war purposes as shown by governmental, trade association or other reports.

(b) The recognized or estimated extent to which certain industries (to whom the contractor sells) may be engaged in war business.

(c) Percentages developed through spot check of the end use of the products for one or more months of the year. The selection of the month or months should be made only after a thorough review of the equity of the choice by the Department and by the contractor. [RR 322.5]

§ 1603.322–6 *Use of reports to Government.* (a) The great majority of companies to be renegotiated for the year 1943 used one or more of the so-called "controlled materials" (steel, copper, and aluminum in various types and shapes) as primary raw materials, secondary materials, or in the form of component parts.

(b) Because the war demand for these materials greatly exceeded the supply, their distribution was closely regulated and they could be obtained only with proper authorization by the War Production Board:

(1) During the fourth quarter 1942, under the Production Requirements Plan ("PRP"),

(2) During the first quarter 1943, under "PRP",

(3) During the second quarter 1943, under either "PRP" or the Controlled Materials Plan ("CMP"),

(4) During the third and fourth quarters 1943, under "CMP".

(c) In order to secure the necessary authorization, all companies (except those using customer-furnished materials) were required to file with the War Production Board applications showing, among other things, shipments and orders analyzed by Preference Ratings and by End Use or Claimant Agencies (Army, Navy, Aircraft, Maritime, Lend-Lease, etc.). Inasmuch as section 35 (A) of the United States Criminal Code, 18 U. S. C., sec. 80, makes it a criminal offense to make a willfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction, the data contained in these applications can be considered reliable. Material deviations from representations in WPB reports in sales segregations for renegotiation purposes should be accepted only when extraordinary circumstances exist, and such circumstances must be explained fully in renegotiation reports to the Department or agency conducting the renegotiation.

(d) Names of "claimant agencies" and their symbols are set forth in the WPB pamphlet "Controlled Materials Plan Major Identification Symbols" dated January 3, 1944. Copies of this pamphlet can be obtained by writing War Production Board, Controller Division, Washington 25, D. C.

(e) "CMP" applications and reports to the WPB provide a ready basis for segregating 1943 sales for purposes of renegotiation.

(1) For manufacturers of Class A products (military items such as aircraft, ammunition, artillery, tanks, ships, electronic, etc., and their major component parts), section A of WPB Form 732 shows analysis of shipments by claimant agencies.

For	*Refer to*
1st Q 1943	WPB732 Budget Bureau No. 12–RO27.2
2nd Q 1943	WPB732 Budget Bureau No. 12–RO27.5
3rd Q 1943	WPB732 Budget Bureau No. 12–RO27.8
4th Q 1943	WPB732 Budget Bureau No. 12–RO27.10
1st Q 1944	WPB732 Budget Bureau No. 12–RO27.11

NOTE: Separate reports usually were filed for each plant or division. To avoid omission of part of the company's operations, all WPB732 forms should be scrutinized.

Because of the character of products manufactured, Class A producers will in almost every instance be found to be fully renegotiable. In rare cases, however, certain sales by Class A producers will prove to be exempt from renegotiation because ultimate payment was not made by one of the nine "Departments" specified in the Renegotiation Act.

(2) For manufacturers of Class B products (minor military items such as bulldozers, components parts such as pumps included in a number of military items, and nonmilitary items), forms CMP–4B and WPB732 show analyses of shipments by claimant agencies.

For	*Refer to*
4th Q 1942	Sec. E of CMP–4B Budget Bureau No. 12–R780–42
1st Q 1943	Sec. C of CMP–4B Budget Bureau No. 12–R780.1 Sec. A of WPB732 Budget Bureau No. 12–RO27.2
2nd Q 1943	Sec. A of CMP–4B Budget Bureau No. 12–R780.5 Sec. A of WPB732 Budget Bureau No. 12–RO27.5
3d Q 1943	Sec. A of CMP–4B Budget Bureau No. 12–RO27.6 Sec. A of WPB732 Budget Bureau No. 12–RO27.8
4th Q 1943	Sec. A of CMP–4B Budget Bureau No. 12–R780.7 Sec. A of WPB732 Budget Bureau No. 12–RO27.10
1st Q 1944	Sec. A of CMP–4B Budget Bureau No. 12–R780.8 Sec. A of WPB732 Budget Bureau No. 12–RO27.11

NOTE: A separate CMP–4B form was made out for each B product. Separate WPB732 forms also were prepared for each plant or division. The CMP–4B and WPB732 forms contain, for renegotiation purposes, essentially the same information; therefore, use whichever is the later.

With possible rare exceptions, shipments classified as follows should be treated as renegotiable:

Claimant:	*Symbol*
Aircraft	C
Army	W, O
Navy	N
Maritime	M
Lend-Lease	L

Careful analysis of shipments classified as follows will be necessary to ascertain that ultimate payment was made by one of the nine "Departments" specified in the Renegotiation Act.

	Probable classification	
	Predominantly renegotiable	Predominantly exempt
Office of Economic Warfare		E
Canadian Division		D
War Food Administration		A
National Housing Agency		H
Petroleum Administration for War		P
Office of Defense Transportation		T
Office of War Utilities		U
Office of Rubber Director	R, F	
WPB Office of Operations Vice Chairman	B, G, J, K	
WPB Facilities Bureau	F	
WPB Office of Civilian Requirements	S	V
Special Purpose	AM, FC, PX, X–1, MRO	WH, RO, SO

The most expeditious method of classifying shipments of these types would appear to be through an analysis of purchase orders, either by customers or by typical months, on the basis of "major program identification symbols". (See pages 1 to 4 of WPB pamphlet referred to in paragraph (d) above.) The same type of analysis is also suggested for companies using customer-furnished materials inasmuch as orders received by them are required to carry the "major program identification symbol".

(f) The segregation of sales for manufacturers of wood products, textiles, chemicals, foods, tobacco products, and printing and publishing items usually can be accomplished most easily through an analysis in terms of end-use orders by customers. PD25A applications to the WPB will provide information useful for this purpose. End-use symbols are still used by companies not operating under "CMP". [RR 322.6]

§ 1603.323 *Segregation with respect to contracts with RFC subsidiaries.* In connection with prime contracts between a contractor and Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation or Rubber Reserve Company, a segregation of sales and allocation of costs is necessary in order that excessive profits, if any, attributable to such contracts may be computed. Such segregation shall not be necessary in cases in which the total amounts received or accrued under such prime contracts with any of the above named subsidiaries of the Reconstruction Finance Corporation do not exceed $50,000, since in any such case no separate determination of excessive profits under such prime contracts will be made. (See § 1605.502–5 and note to article 4 of the Standard Form of Agreement, Form I, § 1607.741–1, requiring repayment of such profits to the RFC Price Adjustment Board.) [RR 323]

§ 1603.324 *Segregation and exclusion of exempt contracts.* Sales and costs allocable to any contract or portion thereof which is exempt from renegotiation under subsection (i) (1) of the 1943 act, or which is exempted from renegotiation under subsection (i) (4) of the 1943 act, shall be entirely excluded from consideration in determining whether

excessive profits have been realized and the amount thereof. However, see § 1603.385–4 (f) for treatment of losses from the sale or exchange of facilities used in performing renegotiable contracts or subcontracts. However, sales allocable to such contracts shall not be excluded in determining whether the contractor is subject to renegotiation under subsection (c) (6) of the 1943 act. [RR 324]

SUBPART C—CONTRACTS AND SUBCONTRACTS WITHIN THE SCOPE OF THE 1943 ACT

§ 1603.330 *Scope of subpart.* This and the following Subparts D and E deal with the contracts and subcontracts subject to renegotiation. This subpart discusses the kinds of prime contracts and subcontracts which are within the 1943 act, aside from exemptions, and the following subparts cover the exemptions (mandatory and permissive, respectively) from renegotiation. [RR 330]

§ 1603.331 *General coverage of 1943 act.* [RR 331]

§ 1603.331–1 *Statutory provision.* Subsection (c) of the 1943 act confers the basic authority to renegotiate, and paragraph (6) of subsection (c), which deals with its application, provides that, with certain exceptions, it shall apply "to all contracts and subcontracts, to the extent of amounts received or accrued thereunder in any fiscal year ending after June 30, 1943, whether such contracts or subcontracts were made on, prior to, or after the date of the enactment of the Revenue Act of 1943, and whether or not such contracts or subcontracts contain the provisions required under subsection (b)." [RR 331.1]

§ 1603.331–2 *Contracts without renegotiation clauses.* Subsection (b) of the 1943 act requires the insertion of renegotiation provisions in certain contracts and subcontracts and provides that these provisions may be incorporated by reference to such subsection. However, both subsections (b) and (c) provide that renegotiation under subsection (c) applies whether or not the contract or subcontract contains such provisions unless such contract or subcontract is specifically excluded or exempted. [RR 331.2]

§1603.331–3 *Exemptions and exclusions.* Subsections (c) (6) and (i) of the 1943 act provide for various exclusions and exemptions of contracts and subcontracts from renegotiation. These are discussed in detail in Subparts D and E of this part. [RR 331.3]

§ 1603.331–4 *Interpretation.* The 1943 act is construed to be inapplicable to sales by the Departments and contracts therefor. [RR 331.4]

§ 1603.332 *Contracts with the departments.* [RR 332]

§ 1603.332–1 *General.* Subject to the exemptions contained in the 1943 act, all contracts made by the War and Navy Departments, the Maritime Commission, the War Shipping Administration, Defense Plant Corporation, Defense Supplies Corporation, Rubber Reserve Company, and Metals Reserve Company are subject to renegotiation. Contracts of the Treasury Department subject to renegotiation include:

(a) Contracts placed under section 201 of Title II of the First War Powers Act, 1941, 55 Stat. 839. These are principally lend-lease contracts which may be identified by the symbols "DA-TPS" preceding the contract number.

(b) Contracts for strategic and critical materials placed under the authority of the act of June 7, 1939, 53 Stat. 811. Such contracts made after March 1, 1943 may be identified by the symbols "SCM–TPS" preceding the contract number.

(c) Contracts for supplies for refugee relief under the Red Cross program, placed under the authority contained in Title II of the Third Supplemental National Defense Appropriation Act, 1942, 55 Stat. 817, or in section 40 of the Emergency Relief Appropriation Act, fiscal year 1941, 54 Stat. 627, and Title I of the Second Deficiency Appropriation Act, 1942, approved July 2, 1942. Such contracts may be identified by the symbols "TRR" preceding the contract number. [RR 332.1]

§ 1603.332–2 *Treasury procurement schedule of supplies.* Contracts of the Procurement Division of the Treasury Department of the type regularly made by it in the ordinary course of business prior to the war period, as such, are not subject to renegotiation unless negotiated under authority contained in Title II of the First War Powers Act, 1941. However, purchase orders, issued by other Departments under General Schedule of Supplies Contracts, which are entered into by the Procurement Division of the Treasury Department on behalf of all departments and establishments of the Government, are considered as subject to the provisions of the 1943 act. Purchase orders issued by the Treasury Department itself under such contracts are also considered as subject to the provisions of the 1943 act if such purchases are for lend-lease or for the Red Cross program. [RR 332.2]

§ 1603.332–3 *Lend-lease contracts.* All so-called lend-lease contracts entered into by any of the Departments having renegotiation authority are subject to the provisions of the 1943 act. However, lend-lease contracts entered into by any other department or agency of the Government are not subject to renegotiation under existing law. [RR 332.3]

§ 1603.332–4 *Cost-plus-fixed-fee contracts.* Cost-plus-fixed-fee contracts are subject to renegotiation unless otherwise exempt. The treatment of such contracts in renegotiation is discussed in § 1603.304. [RR 332.4]

§ 1603.332–5 *Management fee contracts.* Contracts providing for a management fee are subject to renegotiation. [RR 332.5]

§ 1603.332–6 *Army post exchange and Army Exchange Service contracts.* Contracts with Army post exchanges or with the Army Exchange Service are not subject to statutory renegotiations. Contracts entered into by the Quartermaster Corps are War Department contracts and are subject to renegotiation even though some or all of the articles contracted for are intended to be and are assigned to or resold to an Army post exchange or the Army Exchange Service. [RR 332.6]

§ 1603.332–7 *Navy ship's service stores contracts.* Ship's service activities, including ship's service stores, are conducted by Navy personnel but their operations do not involve Navy Department funds. Their contracts are not Navy Department contracts and are not subject to renegotiation. Ship's stores, as distinguished from ship's service stores, are operated with Navy Department funds. Their contracts are Navy Department contracts and are subject to renegotiation. [RR 332.7]

§ 1603.332–8 *Panama Canal contracts.* Contracts with the Panama Canal Zone are subject to statutory renegotiation. Under the Panama Canal Act (48 U.S.C. 1306), the President in time of war may designate an Army officer to assume exclusive authority and jurisdiction over the Panama Canal and the government of the Canal Zone and, by Executive Order 8232 (September 5, 1939), the President has done so. Contracts made by the Canal Zone are therefore treated as contracts with the War Department. Reference to the Panama Canal Zone includes the Panama Canal. [RR 332.8]

§ 1603.332–9 *Panama Railroad Company contracts.* Contracts made by the Panama Railroad Company, a New York corporation whose stock is owned by the United States, are not subject to renegotiation. [RR 332.9]

§ 1603.332–10 *Contracts involving named departments and departments or agencies other than named departments.* In connection with centralized government procurement, certain of the named Departments and other governmental agencies execute contracts pursuant to which the articles contracted for may be delivered to and paid for by other departments or agencies. As a general rule, the renegotiability of such contracts depends upon whether the contract is with a named Department and not upon whether a named Department receives delivery of, or pays for, the articles purchased. The following situations are illustrative of the foregoing principle:

(a) The War Department purchases articles under contracts which state that the contract is for general utilization by all arms, services and bureaus, and that deliveries and payments will be made in accordance with instructions to be issued subsequently. The War Department then authorizes the other interested agencies or departments to issue instructions to certain designated contractors for a specified quantity of the articles, and notifies the contractor of such authorizations. The War Department retains the right to rescind or change the allocation made to the other agencies or departments. Such contracts are subject to renegotiation unless the War Department contract is clearly replaced by a contract with an agency other than a named Department.

(b) Food Distribution Administration manages centralized procurement of cer-

tain foods. Food Distribution Administration executes the contracts, allocates the available supply to other interested departments or agencies (including certain of the named Departments) and is reimbursed by such interested departments or agencies. Since Food Distribution Administration is not a named Department, such contracts are not subject to renegotiation. [RR 332.10]

§ 1603.333 *General interpretation of subcontracts.* [RR 333]

§ 1603.333–1 *Statutory definitions.* (a) Subsection (a) (5) and (6) of the 1943 act provide:

(5) The term "subcontract" means

(A) Any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of any other contract or subcontract, but such term does not include any purchase order or agreement to furnish office supplies; or

(B) Any contract or arrangement other than a contract or arrangement between two contracting parties, one of which parties is found by the Board to be a bona fide executive officer, partner, or full-time employee of the other contracting party, (i) any amount payable under which is contingent upon the procurement of a contract or contracts with a Department or of a subcontract or subcontracts, or determined with reference to the amount of such a contract or subcontract or such contracts or subcontracts, or (ii) under which any part of the services performed or to be performed consists of the soliciting, attempting to procure, or procuring a contract or contracts with a Department or a subcontract or subcontracts: *Provided*, That nothing in this sentence shall be construed (1) to affect in any way the validity of construction of provisions in any contract with a Department or any subcontract, heretofore at any time or hereafter made, prohibiting the payment of contingent fees or commissions; or (2) to restrict in any way the authority of the Secretary of the Board to determine the nature or amount of selling expenses under subcontracts as defined in this subparagraph, as a proper element of the contract price or as a reimbursable item of cost, under a contract with a Department or a subcontract.

The term "article" includes any material, part, assembly, machinery, equipment, or other personal property.

[RR 333.1]

§ 1603.333–2 *Interpretation of definition.* By the definition of "subcontract", profits on the production and sale of articles required for the performance of another contract or subcontract are subject to renegotiation, as well as profits on the production or sale of all materials incorporated into the end product, down to and including raw materials, except certain specified raw materials and agricultural commodities exempted under subsection (i) of the 1943 act. This definition is interpreted to include contracts not only with prime contractors but also with other subcontractors, if such contracts are:

(a) For the sale or processing of an end product or of an article incorporated therein,

(b) For the sale, furnishing or installation of machinery, equipment or materials used in the processing of an end product or of an article incorporated therein,

(c) For the sale, furnishing or installation of machinery used in the processing of other machinery to be used in the processing of an end product or of an article incorporated therein,

(d) For the sale, furnishing or installation of component parts of or subassemblies for machinery included in (c) above and machinery, equipment and materials included in (b) above, and

(e) For the performance of services directly required for the performance of contracts or subcontracts included in (a), (b), (c) and (d) above.

The term "component part" as used in this section shall be deemed to include materials and ingredients. [RR 333.2]

§ 1603.333–3 *When machinery, equipment or materials "used in processing".* Under this interpretation machinery, equipment or materials will be deemed to be used in the processing of an end product or an article incorporated in an end product in all cases where such machinery, equipment or materials are used:

(a) To produce or otherwise operate directly on an end product or an article incorporated in an end product by chemical, physical or mechanical methods; such, for example, as shaping, cutting, constructing, combining, refining, assembling, testing, inspecting or (in the case of end products) packaging. Examples of this category include not only such machinery as rolling mills and machine tools, but also gauges and other measuring instruments, torches and chemicals or other materials consumed in the course of the manufacturing process, such for example as hydrogen, oxygen, coke and acetylene;

(b) To transport within the contractor's plant an end product or an article incorporated in an end product or other articles used in connection with the production thereof. Examples of this category include tote boxes, tractors, trucks and traveling cranes;

(c) In connection with the repair, maintenance, equipping, or operation in the contractor's plant of machinery or equipment there used in the production of an end product, or an article incorporated in an end product. Examples of this category include spare parts, auxiliary tools, abrasives, wrenches, screwdrivers, other hand tools, lubricating oil, cutting oil and dry ice; also machine tools or equipment located in the tool room of a contractor's plant and special equipment used for the manufacture, preparation or maintenance of tools, dies, jigs, fixtures, equipment or machinery. [RR 333.3]

§ 1603.333–4 *General effect of interpretation.* (a) In general it is intended to include as subject to statutory renegotiation the sale of all machinery, equipment, materials and other articles which contribute directly to the actual production of an end item or an article incorporated therein, in connection with the physical handling of the item from the time of entry of the component materials to departure of the item from the plant in question and to include all machinery which similarly contributed directly to the actual production of other machinery so used. Packaging materials and containers are regarded as a component part of the end product when they are used to package or contain the end product and are delivered with the end product to a Department; on the other hand, sales of packaging materials and containers which are not ultimately delivered to a Department are excluded from statutory renegotiation. (See §§ 1603.333–3 (a), 1603.344–5 and 1603.347–2 (a) and (c).)

(b) It is intended to exclude the sale of articles which contribute only indirectly to the actual manufacturing process, such as products used for general plant maintenance, including fuel and equipment to produce light, heat and general power requirements and such as equipment needed for general office maintenance, including all types of office machinery and supplies, and such as safety equipment and clothing.

(c) It is not intended to exclude from renegotiation any articles sold to a contractor when the items are to be ultimately resold to a Department either as end products or as component parts included therein. However, subcontracts to furnish office supplies are specifically excluded from the definition of subcontract. Therefore, subcontracts for office supplies, although such office supplies are ultimately sold to a Department, are not subject to renegotiation. Office supplies are interpreted to include paper, ink, typewriter ribbons, binders, covers, blotters, paper clips, staples and other items of consumable character, as well as related items of relatively short life and minor cost, such as pens, pen holders, pencils, blotter pads and calendars; they do not include office furniture, machinery and equipment, such as desks, chairs, lamps, rugs, waste baskets, filing cases, typewriters and calculating, recording, reproducing and dictating machines. [RR 333.4]

§ 1603.333–5 *Allocation of sales.* Sales of such machinery and equipment are allocated on the basis of the use thereof (i. e., for renegotiable or non-renegotiable production); and when the extent of the use can not be readily established, such sales are considered renegotiable in substantially the same proportion as the production of the purchasers of such machinery and equipment is subject to renegotiation. (See Subpart B of this part, including § 1603.322–3.) [RR 333.5]

§ 1603.334 *Specific interpretations of "subcontract".* [RR 334]

§ 1603.334–1 *Standard commercial articles.* The term "standard commercial article" is defined by subsection (a) (7) of the 1943 act which provides in subsection (i) that agreements for such articles may be exempted by the War Contracts Board under certain conditions. (See § 1603.354.) Unless agreements for standard commercial articles are exempted pursuant to such subsection, their renegotiability will be determined by the same tests applied to agreements for equipment specially fabricated for war uses or purposes. [RR 334.1]

§ 1603.334–2 *OPA price ceilings.* The fact that articles are sold under price ceilings fixed by the Office of Price Administration does not exclude the sale of such articles from renegotiation. Excessive profits have been realized within OPA price ceilings. The increase in volume of sales of such articles may lower costs to such extent that excessive profits are realized. [RR 334.2]

§ 1603.334–3 *Patent licenses as subcontracts.* (a) Licenses for processes or inventions required in performing contracts with the Departments and subcontracts are subcontracts as defined in subsection (a) (5) (A) of the 1943 act subject to statutory renegotiation (unless exempted), without regard to the time that the license was made. Such licenses are not subcontracts under subsection (a) (5) (B) of the 1943 act. In any case where a license and an agreement by the licensor to furnish any technical or other services to the licensee are embraced within a single contract, the agreement to furnish technical or other services may be a subcontract under subsection (a) (5) (B) of the 1943 act. In any such case, the license may be severed from the agreement to furnish technical or other services, and an appropriate finding made as to that portion of the consideration payable under the contract which is payable on account of the license and that portion of the consideration which is payable on account of the services.

(b) In any case in which the receipts or accruals of the contractor include or consist of royalties, the renegotiating agency may consult with the Royalty Adjustment Office of the Department or Service concerned before determining whether excessive profits were derived from such royalties. (See § 1607.796 for addresses of such offices).

(c) If the rates or amounts of the royalties received or accrued for the period involved in the renegotiation have been fixed as fair and just in a Royalty Adjustment Act order or agreement applicable to such period or any part thereof, the renegotiating agency will ordinarily find that no excessive profits have been derived from that part of the royalties covered by such order or agreement. Rates or amounts of royalties fixed as fair and just in a Royalty Adjustment Act order or agreement which does not cover all or some part of the period involved in the renegotiation will not be controlling as to the reasonableness of the royalties received or accrued for such period or such part thereof as is not covered by the order or agreement. [RR 334.3]

§ 1603.334–4 *Subcontracts for office supplies.* The definition of "subcontract" as contained in subsection (a) (5) (A) of the 1943 act specifically excludes therefrom agreements or purchase orders for office supplies. (Also see § 1603.333–4.) [RR 334.4]

§ 1603.335 *Contracts and subcontracts involving real property.* [RR 335]

§ 1603.335–1 *Contracts and subcontracts for existing real property.* (a) Action taken with respect to exempting contracts and subcontracts for certain interests in real property is referred to in § 1603.352–2.

(b) Moreover, aside from such exemption, the statutory definition of "subcontract" is construed to exclude agreements for the purchase of real property by contractors and subcontractors. Since it refers to the making or furnishing of any "article" which in turn is defined to mean any "material * * * or other personal property", the definition implies that agreements for the acquisition of real property are not subcontracts.

(c) The exemptions and exclusions discussed in this section govern agreements for existing real property, but do not apply to agreements for fixtures or for improvements to or construction of real property which are discussed in § 1603.335–2. [RR 335.1]

§ 1603.335–2 *Agreements for fixtures, construction and improvements on real property.* (a) Where an agreement is for work or articles which become real property in the course of its performance, as distinguished from existing real property, the principles stated in this section govern.

(b) Where an agreement to sell, furnish or install machinery, equipment, materials or other personal property would otherwise constitute a renegotiable contract or subcontract, the fact that such property is to be installed in a building or otherwise affixed to real estate and will be treated as real property for some purposes does not exclude the agreement from renegotiation.

(c) Where a contract for the construction of a building or improvements on or to real property is made by a Department, or if not made by a Department the Government acting through a Department is to obtain title to such building or improvements either immediately or ultimately (such as contracts for plant and facilities), then such contract is renegotiable unless exempted. Likewise all subcontracts under such a renegotiable contract for furnishing services, or articles, such as building materials and structural steel, which are personal property when furnished, but which became real property during the course of construction, are renegotiable unless exempted, and so are subcontracts for furnishing any machinery and equipment installed in the building.

(d) Where, however, an agreement is for the construction of a building or improvement on or to real property for a contractor or subcontractor for the purpose of performing a renegotiable contract or subcontract and the Government acting through a Department is not to acquire title to such building or improvements, either immediately or ultimately, then except as provided in (b) above, such agreement and subcontracts thereunder are not subject to renegotiation even though the improvements may be covered by Certificates of Necessity.

(e) In determining whether a subcontract for an item is renegotiable under paragraph (b) or not renegotiable under paragraph (d), it is helpful to consider its character at the time of installation. If the item is one which has a predominantly prefabricated character at the time of installation or assembly, it should be classified as machinery or equipment and the subcontract for its sale is therefore subject to renegotiation. A subcontract for an item is not considered subject to renegotiation if the item has no substantial existence as such until its construction from materials at the time of installation, i. e., where the principal component parts did not have a prior existence as machinery or equipment (in the ordinary sense) off the premises but result from construction on the premises.

(f) Attention is directed to the mandatory and discretionary exemption of contracts or subcontracts for the construction of buildings, structures, improvements or other similar facilities and the regulations relating thereto. (See §§ 1603.346, 1603.347, 1603.355–3 and 1603.356.) [RR 335.2]

§ 1603.336 *Brokers, manufacturers' agents, and dealers; subcontracts.* (a) The definition of subcontract in subsection (a) (5) of the 1943 act includes any contract or arrangement (1) which makes the compensation thereunder depend on procuring one or more contracts with a Department or subcontracts or on their amount, or (2) under which any part of the services performed or to be performed consists of the soliciting or attempting to procure or procuring one or more such contracts or subcontracts. This provision subjects such agreements to renegotiation under the 1943 act to the same extent as other subcontracts. It does not, of course, validate any such agreement if otherwise illegal, or affect the allowance or disallowance of amounts paid under such contracts as items of cost.

(b) In addition, even when not within (a) of this section, contracts between manufacturers and their representatives are subject to renegotiation as subcontracts if the representative is performing, or agrees to make available on request, engineering, mechanical, or other services related to the performance of one or more prime contracts with the Departments or subcontracts, including assistance in obtaining priority certificates and in other matters required in connection with performance of the contract. For example, manufacturers' agents in the machine tool industry customarily hold themselves ready to furnish engineering advice, mechanical service, and advice on training in the use of tools. By contract or custom the manufacturer usually pays the commissions of the agent whether or not these services are used, and charges the amount into the cost of the tool. These activities comprise "part of the work * * * required for the performance of any other contract or subcontract" within the definition of subcontract in subsection (a) (5) (A) of the 1943 act. (See § 1602.203–4.)

(c) When a manufacturer's representative also acts as dealer, he is in substantially the same position as a jobber and his sales of articles to one of the Departments or to a contractor with a Department or a subcontractor are subject to renegotiation, whether the articles are delivered from his own inventory or

shipped direct by the manufacturer. The fact that the prices on articles handled by manufacturers' representatives and jobbers are regulated under Office of Price Administration ceilings does not affect the result. (See § 1603.334–2.) [RR 336]

SUBPART D—MANDATORY EXEMPTIONS AND EXCLUSIONS FROM RENEGOTIATION

§ 1603.340 *Scope of subpart.* The preceding subpart deals with the general interpretation of the coverage of the Renegotiation Act of 1943 and with the meaning of the terms "contract" and "subcontract" as used in the act. The act contains various specific exemptions and exclusions of mandatory character, which are found in subsections (i) and (c) (6) of the act. These exemptions and exclusions will be outlined in this section. Permissive exemptions are covered by the succeeding Subpart E of this part. Exempt contracts are excluded from consideration in determining whether excessive profits have been realized and the amount thereof, but are not excluded in determining whether the contractor is subject to renegotiation under subsection (c) (6). (See § 1603.324.) [RR 340]

§ 1603.341 *The mandatory exemptions.* (a) Contracts and subcontracts with other Governmental agencies are exempted by subsection (i) (1) (A). (See § 1603.343.)

(b) Contracts and subcontracts for certain raw materials are exempted by subsection (i) (1) (B). (See § 1603.344.)

(c) Contracts and subcontracts for agricultural commodities are exempted by subsection (i) (1) (C). (See § 1603.344–2.)

(d) Contracts or subcontracts with tax-exempt charitable, religious and educational institutions are exempted by subsection (i) (1) (D). (See § 1603.345.)

(e) Construction contracts awarded as a result of competitive bidding are exempted by subsection (i) (1) (E). (See § 1603.346.)

(f) Subcontracts under exempt contracts and subcontracts are exempted by subsection (i) (1) (F). (See § 1603.347.) [RR 341]

§ 1603.342 *Authority to interpret.* [RR 342]

§ 1603.342–1 *Statutory provision.* Subsection (i) (2) of the Renegotiation Act of 1943 provides:

(2) The Board is authorized by regulation to interpret and apply the exemptions provided for in paragraph (1) (A), (B), (C), (E), and (F) * * *

[RR 342.1]

§ 1603.342–2 *Scope of authority.* The authority to interpret covers all of the mandatory exemptions except the exemption of tax-exempt charitable, religious and educational institutions. (Subparagraph (i) (1) (D) of the 1943 act; § 1603.345.) [RR 342.2]

§ 1603.343 *Contracts and subcontracts with other governmental agencies.* [RR 343]

§ 1603.343–1 *Statutory exemption.* Subsection (i) (1) (A) of the 1943 act provides that it shall not apply to:

(A) any contract by a Department with any other department, bureau, agency, or governmental corporation of the United States or with any Territory, possession, or State, or any agency thereof or with any foreign government or any agency thereof;

[RR 343.1]

§ 1603.343–2 *Interpretation and application of exemption.* The War Contracts Board has adopted the following interpretation:

(a) Under this provision of the act no contract between one of the Departments and any other federal, local or foreign government agency is subject to renegotiation. A municipal corporation, whether acting in a proprietary or governmental capacity, is considered to be an agency of a State for the purposes of this exemption.

(b) Contracts between such other agencies or governmental corporations and private contractors, and subcontracts thereunder, are likewise not subject to renegotiation, except in those instances where the agency or governmental corporation is acting as a direct agent for a Department. In these instances, the contract is deemed to be with the Department for which the agency or governmental corporation is acting as direct agent, and not with the agency or governmental corporation, and accordingly, if otherwise subject to renegotiation, is not exempted.

(c) Certain of the agencies and governmental corporations referred to sometimes place orders called "pool" orders. Under this type of order the agency or corporation orders large quantities of a particular item from a manufacturer. Before delivery under this order the manufacturer may sell all or a portion of the items to a Department or to a Departmental contractor or subcontractor and the order of the governmental corporation or agency is reduced to the extent of these purchases by others. In such cases the sales by the manufacturer to a Department or to a Departmental contractor or subcontractor are not exempt from renegotiation.

[RR 343.2]

§ 1603.344 *Contracts and subcontracts for certain raw materials and agricultural commodities.* [RR 344]

§ 1603.344–1 *Raw materials.* (a) *Statutory exemption.* Subsection (i) (1) (B) of the 1943 act provides that it shall not apply to:

(B) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use;

(b) *Interpretation and application of exemption.* In determining whether or not a particular product is an "exempted product" under the exemption in subsection (i) (1) (B) of the act, the following principles shall govern:

(1) *Exempted products.* The phrase "other mineral or natural deposit" shall be interpreted to include only mineral or natural deposits of a wasting or depletable character similar to products "of a mine, oil, or gas well." Accordingly, water, sea water and air, and products derived therefrom are not considered to be other mineral or natural deposits within the meaning of the act, and contracts or subcontracts therefor, or for products derived therefrom, shall be subject to renegotiation.

(2) *State at which exemption terminates.* In general a product will be considered to be an exempted product until it has arrived at its dispersal point, i. e., the point at which a substantial proportion of the product is used by the ultimate consumer, or by industries other than the industry of origin. The industry of origin includes not only the primary industry of extraction or severance, but also any processing, refining or treatment directly supplementing its extraction or severance or to produce one or more of the chemical elements or compounds present in it in the state in which it may be found in abundance in nature; but excludes other processing, refining or treatment to produce various end products for the ultimate consumer, or a substantial variety of products which vary materially in size, shape or content from the original product.

(3) *Combination of several materials.* Where substantial quantities of two or more materials or ingredients are combined to produce a product for industrial use, the product resulting from such combination is considered to be non-exempt, unless the other material or materials are used as a catalyst, carrying agent or in some other subordinate capacity in connection with processing, refining or treatment of the principal product which is in the course of preparation for its first industrial use.

(4) *Different processes.* Where a product is made in substantial quantities by two or more different processes, one of which would result in the exemption of the product under the above tests and the other would result in its inclusion, such a product will be considered to be renegotiable only where made by a process which would result in its inclusion.

(5) *By-products.* Where a process for making a product or material subject to renegotiation under the above tests also produces by-products, such by-products shall be treated as subject to renegotiation since any benefits resulting from use or sale of such by-products operate in substance to reduce the cost of the principal product. The principle of the preceding sentence is inapplicable to by-products which would otherwise be exempt under this paragraph. In the case of by-products resulting from processes principally designed to produce an "exempted product" under the above tests, such by-products shall be treated as "exempted products" if they are not further processed, refined or treated. If further processing, refining or treatment of such by-products takes place, the status of the ultimate product resulting will be determined in accordance with the general principles set forth above.

(c) A list of products which, subject to the foregoing interpretation are considered exempt, is set forth in § 1608.841. [RR 344.1]

§ 1603.344–2 *Agricultural commodities*—(a) *Statutory exemption.* Subsection (i) (1) (C) of the 1943 act provides that it shall not apply to:

(C) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state, in which is is customarily sold or in which it has an established market. The term "agricultural commodity" as used herein shall include but shall not be limited to—

(i) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugar cane, and sugar beets;

(ii) natural resins, saps and gums of trees;

(iii) animals such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals, such as wool, eggs, milk and cream;

(b) *Interpretation and application of exemption*—(1) *Applicability.* This provision of the 1943 act is retroactive as if it were a part of the Renegotiation Act on the date of its enactment, April 28, 1942.

(2) *Interpretation.* The purpose of this provision is to exempt from renegotiation farmers, fruit growers, livestock raisers, fishermen and other basic producers of agriculture commodities and those who trade in such products or handle or transport them without processing them; it is not intended to exempt canners, processors, manufacturers and others who acquire products of this type from the basic producer and process them to a higher form or state. In order to qualify for exemption the product contracted for must be an agricultural commodity in its raw or natural state, or if such a commodity is not customarily sold or does not have an established market in its raw or natural state in the first form or state beyond the raw or natural state in which it is customarily sold or in which it has an established market.

(3) *Application.* A commodity will be deemed to be an agricultural commodity in its raw or natural state only so long as it has not undergone some process of treatment or fabrication. In the case of fruits, vegetables and other like products this state does not ordinarily extend beyond the state in which such products are harvested. In the case of livestock, it terminates at the time the animal is slaughtered. Where an agricultural commodity is not customarily sold or does not have an established market in its raw or natural state as above defined and is no longer in such state the exempt status of such commodity will terminate with the state in which the commodity is first customarily sold or has an established market, and, with the exception of the produce of live animals which are specifically exempted, the exemption will not apply to any derivative products which are derived from such commodity in the state in which it is first sold, whether as a result of division, separation or further treatment or processing. For the purposes of determining whether an agricultural commodity is customarily sold or has an established market, regard will be given to the entire field in which such commodity is produced or marketed rather than to sectional or local practices; and varieties, types or classes of the commodity will be disregarded. Profits or losses from sales of agricultural commodities in their exempt form or state, including sales of futures in such commodities, are excluded from consideration in renegotiation. The War Contracts Price Adjustment Board has determined the form or state at which the exemption terminates in the case of each of the agricultural commodities set forth in § 1608.844 and will continue to determine and publish from time to time additions to this list [RR 344.2]

§ 1603.344–3 *Cost allowance for raw materials and agricultural commodities in the case of integrated producers*—(a) *Statutory provision.* Subsection (i) (3) of the Renegotiation Act of 1943 provides, in part, as follows:

(3) In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to and beyond the first form or state suitable for industrial use, or who produces or acquires an agricultural product and processes, refines, or treats such a product to and beyond the first form or state in which it is customarily sold or in which it has an established market, the Board shall prescribe such regulations as may be necessary to give such contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold such product at such first form or state.

(b) *Interpretation and application.* Where a contractor (1) processes, refines, or treats a product of a mine, oil or gas well, or other mineral or natural deposit, or timber, to the first form or state suitable for industrial use, and further refines, processes or treats such product beyond the first form or state suitable for industrial use in order to perform his contract, or (2) produces or acquires an agricultural product and processes, refines or treats such agricultural product to and beyond the first form or state in which it is customarily sold or in which it has an established market, then in such cases for the purposes of statutory renegotiation the product will be treated as an item of cost of the performance of such contract in such amount as, in the opinion of the Department conducting the renegotiation, fairly represents a properly applicable allowance. In determining the proper allowance, due consideration shall be given to the established sale or market price where there is a representative market for the product in the exempt state, and to such other factors as may be necessary to reflect the purpose and intent of the statutory exemption. In general it is the purpose and intent of this provision to allow to the contractor engaged in an integrated process of the type described, an item of cost substantially equivalent to that granted by the statute to others who sell an exempt product, namely what he could have realized if he had sold the exempt product at the intermediate stage. [RR 344.3]

§ 1603.344–4 *Profits from increment in value of excess inventories*—(a) *Statutory exclusion.* Subsection (i) (3) of the Renegotiation Act of 1943, insofar as it relates to the exclusion of profits from the increment in value of excess inventories provides:

(3) * * * Notwithstanding any other provisions of this section there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory. For the purposes of this paragraph the term "excess inventory" means inventory of products, hereinbefore described in this paragraph, acquired by the contractor or subcontractor, in the form or at the state in which contracts for such products on hand and on contract would be exempted from this section by subsection (i) (1) (B) or (C), which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory, and the method of excluding such portion of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board. In the case of a renegotiation with respect to a fiscal year ending prior to July 1, 1943, the portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory shall (to the extent such portion does not exceed the excessive profits determined) be credited or refunded to the contractor or subcontractor, and in case the determination of excessive profits was made prior to the date of the enactment of the Revenue Act of 1943, such credit or refund shall be made notwithstanding such determination is embodied in an agreement with the contractor or subcontractor, but in either case such credit or refund shall be made only if the contractor or subcontractor, within ninety days after the date of the enactment of the Revenue Act of 1943, files a claim therefor with the Secretary concerned.

(b) *Interpretation and application*—(1) *Statement of general principles by the Committee of Conference.* The basic principles of this exclusion are set forth in the following excerpt from the Statement of the Managers of the Committee of Conference on the Revenue Act of 1943.

The profits realized by a contractor or subcontractor by reason of the increment in value of his excess inventory of the materials described in subsections (i) (1) (B) or (i) (1) (C), in the form or state in which contracts therefor are exempted under such subsections, to the extent that such profits are applicable to contracts with the departments or subcontracts, shall be excluded from consideration in determining excessive profits. The test as to whether or not any contractor or subcontractor has an excess inventory of such materials turns upon whether or not the contractor or subcontractor has in inventory quantities of such materials in excess of the amount reasonably necessary to fulfill existing contracts or orders. The method of determining the portion of the profits applicable to contracts with the departments or subcontracts realized by reason of the increment in value of an excess inventory and the method of excluding such por-

tion of such profits from renegotiation will be set out in regulations prescribed by the Board. In the case of a renegotiation with respect to a fiscal year ending prior to July 1, 1943, the portion of the excess inventory (to the extent it does not exceed the excessive profits determined) shall be credited or refunded to the contractor or subcontractor. Where the determination of the excessive profits was made prior to the date of the Revenue Act of 1943, such credit or refund shall be made whether or not the determination is embodied in an agreement with the contractor or subcontractor. In all such cases the credit or refund will be made only if the contractor or subcontractor within 90 days after the date of the enactment of the Revenue Act of 1943, files claim therefor with the secretary concerned.

The following example will show how the amendment operates. A has, through the purchase of long cotton, 600,000 pounds of cotton on hand on a particular date, which has a book cost of ten cents a pound. On this date, A has future orders which will consume only 100,000 pounds of such cotton. A thus has a long position of 500,000 pounds of cotton. The next contract that A takes is for Government goods and requires the use of 500,000 pounds of such cotton. On the day A takes the Government contract, the current market price of such cotton is 15 cents a pound. In such a situation A has placed himself in a position to realize an inventory profit of $25,000. This inventory profit, if realized, is not a manufacturing profit, but is in the nature of an investment or speculative profit which could be realized. It has no relationship to the profits to be derived from the Government contract, and, therefore, represents a profit from an excess inventory, which is excluded from renegotiation under the amendment.

The same situation might also apply in the case of a tobacco and cigarette manufacturer. Suppose for example, when the tobacco markets opened in the fall of 1942 A had on hand 20,000,000 pounds of tobacco of the 1940 crop, 20,000,000 pounds for the 1941 crops, and A then went into the market and bought some 20,000,000 pounds of 1942 grown tobacco, although his existing orders would not cause him to expect to manufacture more than 20,000,000 pounds into cigarettes. He thus has an excess inventory of 40,000,000 pounds of tobacco, and his case would fall within the amendment.

(2) *Definitions.* For the purposes of this section the following definitions shall apply:

(i) *Materials.* Materials are products described in §§ 1603.344–1 and 1603.344–2 (of the grade, class and type to be used by the contractor or subcontractor in fulfilling contracts with a Department or subcontracts for processed or finished goods under which the amounts received or accrued are subject to renegotiation) acquired by the contractor or subcontractor in the last form or state in which contracts therefor are exempt under the provisions set forth in those sections.

(ii) *Inventory.* Inventory is the quantity of materials on hand or under contract for purchase (including the quantity of such materials, adjusted for waste, contained in the work in process inventory and the inventory of uninvoiced finished goods) reduced by the quantity of materials under contract for sale. It should be noted that profits or losses from the sale of materials are excluded from renegotiation under the raw material and agricultural commodity exemptions and that such transactions must be considered separately in the application of the regulations in this part. A contract for purchase or a contract for sale is a contract under the terms of which (*a*) the quantity, the delivery of which the buyer is committed to accept, is certain, (*b*) the time limits in which such fixed quantity is to be delivered are certain, and (*c*) the price is certain or is to be made certain solely by factors existing at a time specified in the contract. Special or unusual contractual arrangements with respect to the acquisition or disposition of materials or finished or processed goods will be given special consideration in acordance with the facts in the individual case.

(iii) *Existing contracts or orders.* Existing contracts or orders, at any time, are the uninvoiced portions of those contracts or orders for processed or finished goods, the fulfillment of which requires the use of the materials in inventory.

(iv) *Excess inventory.* Excess inventory is the inventory of materials which is in excess of the quantity reasonably necessary to fulfill existing contracts or orders.

(v) *Replacement value.* Replacement value of excess inventory is the value of such excess inventory calculated by determining as of the date on which the contractor or subcontractor enters into a contract with a Department or subcontract, under which the amounts received or accrued are subject to renegotiation, the market value of the materials of the grade, of the quality, and in the quantities to be used by the contractor or subcontractor in fulfilling the contract or subcontract. Any factors tending to establish a fair market value may be taken into consideration. If purchase prices or quotations for the particular grade, class and type are used, it will be required that the source of the information be satisfactory, and that the date of the quotation or sale be within a reasonable time of the date of the contract. Inasmuch as the calculation of excess inventory is made on a monthly basis, a weighted average of the market prices existing during each month may be used.

(vi) *Increment in value.* Increment in value is the amount by which the replacement value of the portion of the excess inventory (such excess being applied first to the inventory of material before any processing, to the extent that it can be absorbed thereby), allocated to the fulfillment of renegotiable contracts or subcontracts, exceeds the cost of such portion of the excess inventory as determined by the method of accounting which was or is being used in actual renegotiation.

(3) *Time for determining excess inventory.* Accounting for the purposes of determining excess inventory will commence as of the beginning of the month, four weeks period, or other similar period of accounting employed by the contractor or subcontractor, in which the contractor or subcontractor entered into the first contract with a Department or subcontract under which any part of the amounts received or accrued were subject to renegotiation. Subsequently, excess inventory will be determined as of the beginning of each month, four weeks period, or other similar accounting period in which the contractor or subcontractor enters into contracts with a Department or subcontracts under which the amounts received or accrued are subject to renegotiation. If no excess inventory is found to exist at the beginning of the month, it shall be deemed that none existed throughout the month. If excess inventory is found to exist at the beginning of the month, transactions within that month shall not be deemed to increase the amount of such excess inventory as computed at the beginning of the month, until new computations at the beginning of the succeeding month shall be made. It will not be necessary to calculate actual physical inventories and orders on hand at the beginning of each month; a cumulative calculation may be made by applying the purchases made and orders taken in each month to the position at the beginning thereof, until the date of the succeeding physical inventory. The Department may in its discretion allow a contractor or subcontractor to deviate in individual cases from the monthly basis described above, if available records are considered to be such that some other basis (daily, weekly, etc.) will more accurately bring out the facts in the case. Whatever basis is approved must be used consistently throughout the fiscal year.

(4) *Treatment of excess inventory.* Upon the establishment of the existence of the excess inventory, such inventory is deemed to be the inventory first used by the contractor or subcontractor thereafter, and shall be allocated prorata between contracts with the Departments and subcontracts taken during the month under which the amounts received or accrued are subject to renegotiation, and other contracts, to the extent that such contracts and subcontracts require the use of the material, up to the end of the month in which the excess inventory is exhausted.

(5) *Exclusion of profits attributable to increment in value of excess inventory.* In any case in which it appears that profits attributable to the increment in value of the excess inventory may exist, a tentative determination of excessive profits, will be made without regard to this provision. The tentative excessive profits, so determined, will then be reduced by the portion of the profits attributable to the increment in value of the excess inventory. For the purposes of determining the portion of the profits attributable to the increment in value of the excess inventory which is to be so excluded, replacement value shall be allowed only to that portion of the excess inventory allocated to each such contract or subcontract and the profits to be so excluded attributable to such contracts shall be limited to the portion of such profits received or accrued under such contract or subcontract during the fiscal year. If, for the fiscal year, profits derived from contracts with the Departments or subcontracts under which the amounts received or accrued are subject to renegotiation, attributable to increment in value of the excess inventory, exceed losses derived

from such contracts or subcontracts attributable to decreases in value of the excess inventory, such excess of profits over losses will be excluded in determining excessive profits. [RR 344.4]

§ 1603.344–5 *Packaging materials and containers.* If there are delivered to a Department end products, contracts for which are exempted from renegotiation under subsections (i) (1) (B) or (C) of the 1943 act relating to certain raw materials or agricultural commodities, the exemption of the end products extends to and includes the packages or containers in which the end products are delivered to the Department. (See §§ 1603.333–3 (a), 1603.333–4 (a) and 1603.347–2 (a) and (c).) [RR 344.5]

§ 1603.345 *Contracts or subcontracts with tax-exempt charitable, religious and educational institutions.* [RR 345]

§ 1603.345–1 *Statutory exemption.* Subsection (i) (1) (D) of the 1943 act provides that it shall not apply to:

(D) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code.

[RR 345.1]

§ 1603.345–2 *Internal Revenue Code.* Section 101 (6) of the Internal Revenue Code exempts from taxation:

(6) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

[RR 345.2]

§ 1603.346 *Construction contracts awarded as a result of competitive bidding.* [RR 346]

§ 1603.346–1 *Statutory exemption.* Subsection (i) (1) (E) of the 1943 act provides that it shall not apply to:

(E) any contract with a Department, awarded as a result of competitive bidding, for the construction of any building, structure, improvement, or facility.

[RR 346.1]

§ 1603.346–2 *Interpretation and application of exemption.* (a) This section of the 1943 act is appliacble only to amounts received or accrued for fiscal years ending after June 30, 1943 (regardless of the date when the contract was made), under any contract which meets all of the following conditions:

(1) The contract is a contract with a Department (i. e., is a prime contract). The exemption has no direct applicability to subcontracts—but see § § 1603.347 and 1603.356–2 for the principles governing exemption of subcontracts under prime contracts as to which this exemption is applicable.

(2) The contract is for the construction of a building, structure, improvement or similar facility. A contract will be deemed to be for the construction of a building, structure, improvement or similar facility if the subject matter of the contract is the construction or installation of the whole or any integral part of a building, structure, improvement or similar facility. The exemption has, however, no applicability to contracts for the furnishing of materials or supplies, as such, even if such materials or supplies are to be used in the construction of a building, structure, improvement or similar facility; nor has the exemption any applicability to contracts for the furnishing of machinery or equipment which has or may have a productive function in connection with processing.

(3) The contract was awarded as a result of competitive bidding. A contract will be deemed to have been awarded as a result of competitive bidding only if (i) there has been published advertising or such other solicitation for bids as would open the bidding to all qualified bidders who could have been reasonably expected to bid on a job of the size, character and location concerned, (ii) bids are received from two or more independent, responsible and qualified bidders in actual competition with each other, (iii) the contract is let to the lowest qualified bidder, and (iv) the contract price was not in excess of the low bid received.

(b) In distinguishing a contract for the construction of a building, structure, improvement or similar facility from a contract for the furnishing of machinery or equipment as described in paragraph (a) (2) of this section, regard is to be had to the subject matter of the contract. To the extent that the subject matter of the contract involves the furnishing or the furnishing and installation of machinery or equipment which has or may have use in processing, within the principles stated in § 1603.333–3, the contract will not be deemed to be a contract for the construction of a building, structure, improvement or similar facility, but will be regarded as a contract for the furnishing of machinery or equipment, in accordance with the principles set forth in §§ 1603.335–2 (b) and 1603.335–2 (e). In a case where the construction or installation of the whole or any integral part of a building, structure, improvement or similar facility and the furnishing of machinery or equipment are embraced within a single contract, the undertaking for the construction or installation of the whole or any integral part of the building, structure, improvement or similar facility may be severed from the undertaking to furnish the machinery or equipment and an appropriate finding made as to that portion of the entire contract which may properly be deemed exempt.

(c) If a construction contract is exempt from renegotiation under the provisions of this section, all modifying instruments thereto providing for additional or different construction of buildings, structures, improvements or facilities to be performed at or adjacent to the site of the original project are considered a part of the original construction contract and therefore are exempt from renegotiation: *Provided, however,* That the aggregate contract prices of all such modifying instruments do not exceed one-third of the contract price of the original construction contract.

(d) Determination whether this exemption is applicable to any particular prime contract shall be made, upon the basis of the principles referred to in the preceding paragraphs of this section, by the renegotiation agency of the Department or Service conducting the renegotiation in which such contract is involved, except as provided in § 1603.347–2 (b). The renegotiation agency of each Department or Service shall maintain a central file with respect to determinations made by it as to the exempt or non-exempt status of prime contracts. [RR 346.2]

§ 1603.347 *Subcontracts under exempt contracts and subcontracts.* [RR 347]

§ 1603.347–1 *Statutory exemption.* Subsection (i) (1) (F) of the 1943 Act provides that it shall not apply to:

(F) any subcontract, directly or indirectly under a contract or subcontract to which this section does not apply by reason of this paragraph.

[RR 347.1]

§ 1603.347–2 *Interpretation and application of exemption.* (a) It should be noted that the exemption applies only where the subcontract is under a contract or subcontract exempted by paragraph (1) of subsection (i) of the 1943 act. Thus, subcontracts under prime contracts or subcontracts exempted under the discretionary exemptions authorized by subsection (i) (4) of the 1943 act, the exemption measured by renegotiable volume under subsection (c) (6), or any other exemption or exclusion contained in the 1943 act, are not exempted by this provision. (See § 1603.348–5.)

(b) In any case in which the renegotiable status of a subcontract depends upon the exempt or non-exempt status (by reason of the possible application of § 1603.346–2) of a prime contract, the procedure shall be as follows: The Department or Service conducting the renegotiation in which such subcontract is involved shall make direct inquiry of the renegotiation agency of the Department or Service to which the contractor having the prime contract has been assigned for renegotiation, as to any determination made with respect to the exempt or non-exempt status of such prime contract. If no such determination has been made, then the renegotiation agency of the Department or Service to which the prime contractor is assigned (or was assigned, if the assignment has been cancelled) for renegotiation shall, as expeditiously as possible and without awaiting completion of renegotiation with the prime contractor, determine the exempt or non-exempt status of such prime contract and shall promptly advise the Department or Service conducting the renegotiation in which the subcontract in question is involved. If the prime contractor has not been, and will not be, assigned for renegotiation, the Department or Service conducting the renegotiation in which such subcontract is involved shall make direct inquiry of the renegotiation agency of the Department

or Service which awarded the prime contract, which shall promptly make a determination of the exempt or non-exempt status of such prime contract and advise the Department or Service conducting the renegotiation in which such subcontract is involved. A determination made with respect to the exempt or non-exempt status of the prime contract shall be controlling with respect to the exempt or non-exempt status of the subcontract.

(c) Subcontracts for the furnishing of packaging materials and containers in which there are delivered materials or products which are exempt from renegotiation under the provisions of subsections (i) (1) (B) or (C) of the 1943 act, relating to certain raw materials or agricultural commodities or which are otherwise exempt under paragraph (i) (1) of the 1943 act (see §§ 1603.333–3 (a), 1603.333–4 (a), 1603.344–5 and 1603.347–2 (a)) constitute subcontracts under exempt prime contracts and are exempt from renegotiation under the provisions of subsection (i) (1) (F) of the 1943 act. [RR 347.2]

§ 1603.348 *Annual receipts under statutory minimum.* [RR 348]

§ 1603.348–1 *Statutory provision.* Subsection (c) (6) of the 1943 act provides:

(6) This subsection shall be applicable to all contracts and subcontracts . . . unless (A) the contract or subcontract provides otherwise pursuant to subsection (i) or is exempted under subsection (i) or (B) the aggregate of the amounts received or accrued in such fiscal year by the contractor or subcontractor and all persons under the control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts (including those described in Clause (A), but excluding subcontracts described in subsection (a) (5) (B)) do not exceed $500,000 and under subcontracts described in subsection (a) (5) (B) do not exceed $25,000 for such fiscal year. If such fiscal year is a fractional part of twelve months, the $500,000 amount and the $25,000 amount shall be reduced to the same fractional part thereof for the purposes of this paragraph.

[RR 348.1]

§ 1603.348–2 *Computation of aggregate receipts and accruals.* (a) In order to qualify for this exemption a contractor must meet two conditions:

(1) The gross receipts or accruals of the contractor and his affiliates for his fiscal year from subcontracts within the scope of subsection (a) (5) (B) of the 1943 act (that is, for services in procuring contracts or subcontracts) must not exceed $25,000; and

(2) The gross receipts or accruals of the contractor and his affiliates for his fiscal year from all contracts with the Departments and from all subcontracts within the scope of subsection (a) (5) (A) of the 1943 act, including contracts and subcontracts exempt from renegotiation under subsection (i) of the 1943 act but excluding subcontracts covered in (a) above, must not exceed $500,000.

(b) Affiliate is used in § 1603.348 to refer to a person who controls or is controlled by or under common control with the contractor. Total receipts or total billings under cost-plus-fixed-fee contracts are included in gross receipts or accruals in computing the limits referred to in § 1603.348. For the purpose of applying this provision of the act gross receipts and accruals will be computed without the elimination of inter-company sales.

(c) When the fiscal years of the respective members of the affiliated group differ, the test will be whether, during the twelve months period (or fraction thereof) which is the fiscal year of the member of the group being considered for renegotiation, the group had gross receipts or accruals in excess of the statutory minimum.

(d) If the contractor meets one of the conditions referred to in subdivision (a) hereof but not the other, renegotiation will be conducted only with respect to his contracts and subcontracts as defined in subsection (a) (5) (A) of the 1943 act or with respect to his subcontracts as defined in subsection (a) (5) (B) of the 1943 act, as the case may be, as to which the condition is not met. [RR 348.2]

§ 1603.348–3 *No reduction by refund below exemption.* (a) In connection with the renegotiation of contracts and subcontracts (other than subcontracts referred to in subsection (a) (5) (B) of the 1943 act), no determination of excessive profits after adjustment for state income taxes shall be made in an amount greater than that which, when deducted from the aggregate amount of gross receipts or accruals referred to in § 1603.348–2 (a) (2) will reduce them below $500,000.

(b) In connection with the renegotiation of subcontracts referred to in subsection (a) (5) (B) of the 1943 act, no determination of excessive profits after adjustments for state income taxes shall be made in an amount greater than that which, when deducted from the aggregate amount of gross receipts or accruals referred to in § 1603.348–2 (a) (1) will reduce them below $25,000.

(c) In the case of a fiscal year of less than twelve months, ending after June 30, 1943, these rules are applied on a prorated basis.

(d) In the renegotiation of contractors who are subject to renegotiation by reason of the common control provisions of the 1943 act (see § 1603.348–1) the refund may reduce the aggregate amount of gross receipts or accruals of any member below the floor specified in paragraph (a) or (b) of this section but the aggregate of the recoveries from such contractors after adjustment for state income taxes must not reduce the combined adjusted sales of the contractors below the minimum referred to in this section. In the case of companies renegotiated on a consolidated basis the combined adjusted sales will be computed without the elimination of inter-company sales (see § 1603.348–2 (b).

(e) In applying the provisions of this § 1603.348–3 to any case in which an adjustment for state income taxes is required (see § 1603.389), excessive profits shall first be determined and the appropriate adjustment for state income taxes shall be made without regard to any limitations imposed by this section upon the amount of refund. The limitations of this section shall then be applied in determining the amount to be refunded. [RR 348.3]

§ 1603.348–4 *Tests of "control".* In determining whether the contractor controls or is controlled by or under common control with another person, the following principles should be followed:

(a) *Corporate control.* A parent corporation which owns more than 50% of the voting stock of another corporation controls such other corporation and also controls all corporations controlled by such other corporation.

(b) *Individual control.* An individual who owns more than 50% of the voting stock of a corporation controls the corporation and also controls all corporations controlled by the corporation.

(c) *Partnership control.* A general partner who is entitled to more than 50% of the profits of a partnership controls the partnership.

(d) *Joint venture control.* A joint venturer who is entitled to more than 50% of the profits of a joint venture controls the joint venture.

(e) *Other cases.* Actual control is a question of fact. Whenever it is believed that actual control exists even though the foregoing conditions are not fulfilled, the matter may be determined by the Department or Service conducting the renegotiation. [RR 348.4]

§ 1603.348–5 *Subcontracts under contracts exempt under the statutory minimum.* Sales under subcontracts are not exempt solely because the purchaser is a contractor who is exempt because his annual receipts and accruals are under the statutory minimum, since the exemption of subsection (i) (1) (F) of the 1943 act is limited to subcontracts under contracts and subcontracts exempt by reason of subparagraph (1) of paragraph (i) of the 1943 act. (See § 1603.347–2.) [RR 348.5]

SUBPART E—PERMISSIVE EXEMPTIONS FROM RENEGOTIATION

§ 1603.350 *Scope of subpart.* The preceding subpart deals with mandatory exemptions and exclusions from the operation of the Renegotiation Act of 1943. The act contains certain provisions authorizing the War Contracts Board, or persons to whom its authority shall be delegated, to exempt other contracts and subcontracts from the operation of the act. This subpart will deal with these permissive exemptions. Such exempted contracts are excluded from consideration in determining whether excessive profits have been realized and the amount thereof, but are not excluded in determining whether the contractor is subject to renegotiation under subsection (c) (6). (See § 1603.324.) [RR 350]

§ 1603.351 *Contracts and subcontracts to be performed outside the United States.* [RR 351]

§ 1603.351–1 *Statutory authority.* Subsection (i) (4) of the 1943 act authorizes the War Contracts Price Adjustment Board, in its discretion, to exempt

from some or all of the provisions of the act

(A) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska.

[RR 351.1]

§ 1603.351–2 *Exemption.* (a) Each contract or subcontract to be performed outside the territorial limits of the continental United States, outside the territories of Alaska and Hawaii, outside the Panama Canal Zone, and outside the other territories and island possessions of the United States shall be exempt from the provisions of the Renegotiation Act of 1943 unless it shall be determined by the War Contracts Board or by any authority to whom power to exempt individual contracts under subsection (i) (4) (A) of the 1943 act has been or may be delegated or redelegated:

(1) That administrative difficulties do not make impracticable the renegotiation of such contract or subcontract,

(2) That the procurement program of the United States in foreign countries will not be adversely affected by such renegotiation, and

(3) That such renegotiation will not otherwise be contrary to the interests of the United States.

(b) In determining whether the procurement program of the United States in foreign countries or the interests of the United States generally will be adversely affected by such renegotiation, it is considered desirable that representatives of the Department of State of the United States be consulted, if practicable; such consultation shall not, however, be essential to the valid renegotiation of any contractor or subcontractor.

(c) Such determination may be made at any time whether before or after the execution of the contract or subcontract and whether or not it contains a renegotiation clause. [RR 351.2]

§ 1603.352 *Contracts and subcontracts where profits determinable when price established.* [RR 352]

§ 1603.352–1 *Statutory authority.* Subsection (i) (4) of the 1943 act authorizes the War Contracts Price Adjustment Board, in its discretion, to exempt from some or all of the provisions of the act:

(B) any contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of agreements for personal services, for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, of leases and license agreements, and of agreements where the period of performance under such contract or subcontract will not be in excess of thirty days;

[RR 352.1]

§ 1603.352–2 *Exemptions.* (a) In the opinion of the War Contracts Price Adjustment Board, the profits from the following contracts or portions thereof can be determined with reasonable certainty when the contract price is established and such contracts or portions thereof are accordingly exempted from the provisions of the Renegotiated Act to the extent herein provided:

(1) Contracts and subcontracts for the sale or lease of any interest in real estate (see § 1603.335–1), or

(2) Contracts and subcontracts for the sale or exchange of tangible property used in the trade or business of the vendor, with respect to which depreciation is allowable under section 23 (l), or amortization is allowable under section 124, of the Internal Revenue Code (not including stock in trade of the vendor or other property which would properly be included in the inventory of the vendor if on hand at the close of his fiscal year, or property held by the vendor primarily for sale in his trade or business), or

(3) Contracts for the sale of vessels and their equipment, other than contracts for the construction of vessels.

(4) Such portion of contracts for the lease of vessels and their equipment, which provides (as in bareboat charters), for a rental for the bare use of the vessel and its equipment (herein called the "use rate"), or which provides (as in time charters) for a use rate, as distinguished from compensation for the services to be rendered by the contractor under the time charter (herein called the "service rate"), provided that where the time charter contains no segregation of the contract price between the use rate and the service rate, the apportionment of the contract price between the use rate and the service rate may be made by the Department conducting the renegotiation. In connection with such apportionment consideration may be given to the Report of the Advisory Board on Just Compensation, established by the President on October 15, 1943, by Executive Order 9387, which report dated December 7, 1943, established rules of general applicability for the guidance of the War Shipping Administration in determining just compensation to be paid for all vessels requisitioned, purchased, chartered or insured by the said Administration, and General Order 37 of the War Shipping Administration (9 F.R. 3806), and any supplements and amendments thereto, to the extent the same may be applicable to such vessels and their equipment. Nothing contained in this subparagraph (4) shall be deemed to exempt from renegotiation contracts commonly known as "space charters" or the service rate in time charters, regardless of whether the vessel involved was requisitioned by the Government or any agency thereof.

(b) The words "when the contract price is established" in subsection (i) (4) (B) of the Renegotiation Act and in the preceding subdivision of this paragraph are a qualification upon the scope of the exemption, and contemplate that the contract or subcontract price shall be established at the time the contract or subcontract is entered into. Accordingly, this exemption extends only to contracts and subcontracts under which the price is a fixed or determinable amount at the time the contract or subcontract is entered into, and does not apply to any contract or subcontract under which the price, at the time the contract or subcontract is entered into, is contingent upon a subsequent event or is thereafter to be determined by reference to a variable element (as, for example, the lessee's sales or profits).

(c) For an exemption relating to certain contracts and subcontracts involving electric power, gas, transportation and communications and subcontracts thereunder, see § 1608.842. For an exemption relating to perishable foods, see § 1608.843. [RR 352.2]

§ 1603.353 *When contract provisions adequate to prevent excessive profits.* [RR 353]

§ 1603.353–1 *Statutory authority.* Subsection (i) (4) of the 1943 act authorizes the War Contracts Price Adjustment Board, in its discretion, to exempt from some or all of the provisions of the act:

(C) any contract or subcontract or performance thereunder during a specified period or periods, if in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits.

[RR 353.1]

§ 1603.353–2 *Requests for exemption.* Requests for exemption of particular contracts and subcontracts should be directed to the procurement officials of the Department concerned, and not to the War Contracts Board. [RR 353.2]

§ 1603.354 *Contracts and subcontracts for standard commercial articles.* [RR 354]

§ 1603.354–1 *Statutory authority.* (a) Subsection (i) (4) of the 1943 act authorizes the War Contracts Price Adjustment Board, in its discretion, to exempt from some or all of the provisions of the act:

(D) any contract or subcontract for the making or furnishing of a standard commercial article, if, in the opinion of the Board, competitive conditions affecting the sale of such article are such as will reasonably protect the Government against excessive prices;

(b) Subsection (a) (7) of the 1943 act provides:

(7) The term "standard commercial article" means an article—

(A) which is identical in every material respect with an article which was manufactured and sold, and in general civilian, industrial, or commercial use prior to January 1, 1940,

(B) which is identical in every material respect with an article which is manufactured and sold, as a competitive product, by more than one manufacturer, or which is an article of the same kind and having the same use or uses as an article manufactured and sold, as a competitive product, by more than one manufacturer, and

(C) for which a maximum price has been established and is in effect under the Emergency Price Control Act of 1942, as amended, or under the Act of October 2, 1942, entitled "An act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes", or which is sold at a price not in excess of the January 1, 1941, selling price.

An article made in whole or in part of substitute materials but otherwise identical in every material respect with the article with which it is compared under subparagraphs

(A) and (B) shall be considered as identical in every material respect with such article with which it is so compared.

(c) Subsection (i) (2) of the 1943 act provides:

(2) The Board is authorized by regulation * * * to interpret and apply the definition contained in subsection (a) (7).

[RR 354.1]

§ 1603.354–2 *Interpretation and application.* (a) Exemption of standard commercial articles will be made on the basis of "articles" by types or classes and not on the basis of individual contracts or individual contractors. Exemptions will be effective with respect to such date as may be specified in the exemption and will apply to amounts received or accrued or to contracts entered into after the specified date.

(b) Studies made with respect to the existence of excessive profits in the standard commercial article field in connection with the Congressional hearings on the amendments to the Renegotiation Act indicated that the production of standard commercial articles purchased in substantial volume for war purposes had generally resulted in excessive profits on renegotiable business both in 1942 and in 1943. The Congress rejected the suggestion that a basis for exemption existed by reason of the fact a particular article constituted a standard commercial article or was sold under OPA ceiling prices. Furthermore, it is to be noted that the fact that an individual contractor may not be making excessive profits on such an article is of little significance. The status of the individual contractor is more readily dealt with through renegotiation where he can be given a clearance if after examination it is found that no excessive profits exist in the particular case. Accordingly, in order that useless requests for exemption may be avoided, it should be noted that exemptions under section 403 (i) (4) (D) can only be made where competitive conditions have been such as reasonably to protect the Government against excessive prices and on the basis of broad national conditions and considerations and after complete research and development of the factual and legal questions involved.

(c) For exemptions under the standard commercial article exemption, see § 1608.845. [RR 354.2]

§ 1603.355 *Contracts and subcontracts when effective competition is likely to exist.* [RR 355]

§ 1603.355–1 *Statutory authority.* Subsection (i) (4) of the 1943 act authorizes the War Contracts Price Adjustment Board, in its discretion, to exempt from some or all of the provisions of the act:

(E) any contract or subcontract, if, in the opinion of the Board, competitive conditions affecting the making of such contract or subcontract are such as are likely to result in effective competition with respect to the contract or subcontract price.

[RR 355.1]

§ 1603.355–2 *General interpretation of exemption.* The War Contracts Board will make exemptions under this provision only as to classes or types of contracts on the basis of the subject matter with which the contract or subcontract is concerned. Exemptions by the Board will be based upon broad national conditions and considerations and will be limited to those fields where, in the opinion of the Board, not only do competitive conditions exist, but the competition is such that it may be presumed to be effective in the sense of producing fair and reasonable prices for the Government and in generally eliminating excessive profits. [RR 355.2]

§ 1603.355–3 *Application of exemption to construction contracts and subcontracts entered into subsequent to June 30, 1943 and before January 1, 1944.* (a) The War Contracts Board has found that competitive conditions affecting the making of construction contracts and subcontracts entered into subsequent to June 30, 1943, were such as to result in effective competition with respect to the contract or subcontract price where all of the following conditions exist,

(1) The contract or subcontract is for the construction of a building, structure, improvement or similar facility. A contract or subcontract will be deemed to be for the construction of a building, structure, improvement or similar facility if the subject matter thereof is the construction or installation of the whole or any integral part of a building, structure, improvement or similar facility. The exemption, has, however, no applicability to contracts or subcontracts for the furnishing of materials or supplies, as such, even if such materials or supplies are to be used in the construction of a building, structure, improvement or similar facility; nor has the exemption any applicability to contracts or subcontracts for the furnishing of machinery or equipment which has or may have a productive function in connection with processing;

(2) The contract or subcontract did not constitute a substitute for or a revision or extension of an existing contract or subcontract entered into on or before June 30, 1943;

(3) The work covered by the contract or subcontract was substantially the same as the work for which the bids were requested;

(4) Bids were received from two or more independent, responsible and qualified bidders in actual competition with each other; and

(5) The contract or subcontract was let to the lowest qualified bidder, at a price not in excess of the low bid;

or where the subcontract is a construction contract which (i) meets the conditions prescribed in subparagraph (1) above, and (ii) is a subcontract under a contract or subcontract exempt from renegotiation under the foregoing provisions of this § 1603.355–3. Accordingly, the War Contracts Price Adjustment Board, in accordance with subsection (i) (4) of the Renegotiation Act, has exempted such contracts and subcontracts from all of the provisions of the act.

(b) In distinguishing a contract or subcontract for the construction of a building, structure, improvement or facility from a contract or subcontract for the furnishing or installation of machinery or equipment, the principles of § 1603.346–2 (b) will be followed.

(c) If a construction contract or subcontract is exempt from renegotiation under the provisions of this § 1603.355–3, all modifying instruments thereto providing for additional or different construction of buildings, structures, improvements or similar facilities at or adjacent to the site of the original project are considered a part of the original construction contract or subcontract and therefore are exempt from renegotiation: *Provided, however,* That the aggregate contract prices of all such modifying instruments do not exceed one-third of the contract price of the original construction contract or subcontract.

(d) Determination whether this exemption is applicable to any particular prime contract shall be made, upon the basis of the principles referred to in the preceding paragraphs of this section, by the renegotiation agency of the Department or Service conducting the renegotiation in which such prime contract is involved. The renegotiation agency of each Department or Service shall maintain a central file with respect to determinations made by it as to the exempt or non-exempt status of prime contracts. In any case in which the renegotiable status of a construction subcontract is dependent upon the applicability or nonapplicability of the provisions of this section to a prime contract, the procedure to be followed shall be the same as is provided in § 1603.347–2 (b). If the exempt or non-exempt status of a construction subcontract is not dependent upon the status of a prime contract, then the renegotiation agency of the Department or Service conducting the renegotiation in which such subcontract is involved shall determine the exempt or non-exempt status of such subcontract. [RR 355.3]

§ 1603.355–4 *Application of exemption to construction contracts and subcontracts entered into subsequent to December 31, 1943.* The War Contracts Board has found that competitive conditions affecting the making of construction contracts and subcontracts entered into subsequent to December 31, 1943, were such as to result in effective competition with respect to the contract or subcontract price, and accordingly, the Board, in accordance with subsection (i) (4) of the 1943 act, has exempted such contracts and subcontracts from all of the provisions of the 1943 act. The term "construction contracts and subcontracts" as used herein shall be construed in accordance with the principles set forth in § 1603.355–3 (a) (1) and (b). [RR 355.4]

§ 1603.356 *Subcontracts as to which it is not administratively feasible to determine and segregate profits.* [RR 356]

§ 1603.356–1 *Statutory authority.* Subsection (i) (4) of the 1943 act authorizes the War Contracts Price Adjustment Board, in its discretion, to ex-

empt from some or all of the provisions of the act:

(F) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section, if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation.

[RR 356.1]

§ 1603.356–2 *Exemption.* (a) The War Contracts Board has found that it is not administratively feasible to determine and segregate the profits attributable to activities subject to renegotiation from those not so subject in the case of the following subcontracts:

(1) Subcontracts directly or indirectly under a prime contract to which the provisions of § 1603.346–2 are applicable as to only a portion of the amounts received or accrued therefrom, due to the fact that a portion of such amounts were received or accrued in a fiscal year ending prior to July 1, 1943;

(2) Subcontracts directly or indirectly under any modifying instrument of the general type described in § 1603.346–2 (c) (regardless of whether such modifying instrument is exempted under that section) which modifies a contract to which the provisions of § 1603.346–2 are applicable; and

(3) Subcontracts for the construction of a building, structure, improvement or other similar facility directly or indirectly under any modifying instrument of the general type described in § 1603.355–3 (c) (regardless of whether such modifying instrument is exempted from renegotiation under § 1603.355–3).

The War Contracts Board has therefore exempted the foregoing subcontracts from all the provisions of the 1943 act.

(b) Since the powers of the War Contracts Board under subsection (i) (4) (F) (§ 1603.356–1) are applicable only to amounts received or accrued for fiscal years ending after June 30, 1943, the exemptions made by this section are applicable only to amounts received or accrued under such subcontracts for fiscal years ending after June 30, 1943.

(c) In determining whether a subcontract is one for the construction of a building, structure, improvement or other similar facility, the principles of § 1603.346–2 shall be applied. [RR 356.2]

§ 1603.356–3 *Cross reference.* For an exemption of subcontracts under certain public utility contracts, see § 1608.842–6. [RR 356.3]

§ 1603.357 *Delegation of authority to make permissive exemptions.* (a) The authority to make exemptions of contracts or subcontracts under subsection (i) (4) of the 1943 act by general classes or types has not been delegated by the War Contracts Board to each Secretary except as referred to in paragraph (b). The War Contracts Board has, however, delegated to each Secretary authority to make exemptions under this subsection of individual contracts entered into pursuant to his authority, and subcontracts under any such contracts (whether or not such subcontracts are also subcontracts under prime contracts with other Departments).

(b) With respect to patent license agreements, more general authority has been delegated to each Secretary. (See § 1608.821–2).

(c) Such delegations of authority, however, must be exercised in accordance with interpretations of the 1943 act and regulations relating thereto issued by the War Contracts Board. Also, subject to interpretations and regulations of the War Contracts Board, the Secretary to whom an assignment for renegotiation is made has authority to interpret and apply exemptions under subsection (i) (4) of the 1943 act. The Secretaries have been given full power to redelegate this authority and to authorize further redelegations. (See §§ 1608.821–1 and 1608.821–2.) [RR 357]

§ 1603.358 *Requests for exemption.* All requests or petitions for the exemption by general classes or types of contracts and subcontracts for a standard commercial article or of contracts or subcontracts where it is claimed there is "effective competition" or of other general classes or types of contracts under subsection (i) (4) of the 1943 act should be made in writing in triplicate and addressed to the War Contracts Price Adjustment Board at the address specified in § 1607.791–5, and should be supported by a full statement of facts setting forth the basis for the requested exemption. [RR 358]

SUBPART F—LIMITATIONS ON COMMENCEMENT AND COMPLETION OF RENEGOTIATION

§ 1603.360 *Scope of subpart.* The Renegotiation Act of 1943 contains certain limitations on the commencement of renegotiation proceedings and their completion, which will be outlined in this subpart. The related subject of termination of all renegotiation under the act is covered by the succeeding Subpart G. [RR 360]

§ 1603.361 *Statutory provision.* Subsection (c) (3) of the Renegotiation Act of 1943 provides:

(3) No proceeding to determine the amount of excessive profits shall be commenced more than one year after the close of the fiscal year in which such excessive profits were received or accrued or more than one year after the statement required under paragraph (5) is filed with the Board, whichever is the later, and if such proceeding is not so commenced, then upon the expiration of one year following the close of such fiscal year, or one year following the date upon which such statement is so filed, whichever is the later, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits is not made within one year following the commencement of the renegotiation proceeding, then upon the expiration of such one year all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (A) if an order is made within such one year by the Secretary (or an officer or agency designated by the Secretary) pursuant to a delegation of authority under subsection (d) (4), such one-year limitation shall not apply to review of such order by the Board, and (B) such one-year period may be extended by mutual agreement.

[RR 361]

§ 1603.362 *Commencement of renegotiation proceedings.* Unless renegotiation proceedings are commenced either, (a) within one year after the close of the fiscal year in which the excessive profits were received or accrued, or (b) within one year after the statement required under subsection (c) (5) of the 1943 act is filed with the War Contracts Board, whichever is later, the liability of the contractor or subcontractor for the fiscal year involved will be discharged. Under subsection (c) (1) of the Renegotiation Act of 1943 the mailing of notice by registered mail of the time and place of a conference to be held with respect to the determination of excessive profits constitutes the commencement of the renegotiation proceeding (see § 1602.241). [RR 362]

§ 1603.363 *Completion of renegotiation proceedings.* Renegotiation must be completed by the making of an agreement or the entry of an order within one year following the commencement of the renegotiation proceeding, or the liability of the contractor or subcontractor for the fiscal year involved will be discharged. The one year period of limitation on completion of renegotiation proceedings does not apply, however, to the review by the War Contracts Board of an order made by a Secretary of a Department or any officer or agency to whom his authority in this respect has been redelegated. Also, the one year period may be extended by mutual agreement. A form which may be used for such extension is set out in § 1607.725, and reference is made to § 1608.821–1 concerning authority to execute the same. The formalities for its execution are similar to the formalities for the execution of a renegotiation agreement (see § 1605.502–12 including paragraph (e)). [RR 363]

SUBPART G—TERMINATION OF RENEGOTIATION

§ 1603.370 *Scope of subpart.* This subpart deals with termination of renegotiation in general under the provisions of subsection (h) of the Renegotiation Act of 1943. [RR 370]

§ 1603.371 *Statutory provision.* (a) Subsection (h) of the 1943 act provides that the act shall apply only with respect to profits which are attributable to performance prior to the termination date, and for the determination of such profits, as follows:

(A) in the case of any contract or subcontract the performance of which requires more than twelve months, or in the case of any contract, or subcontract with respect to which the powers of the Board are exercised separately pursuant to subsection (c) (1) rather than on a fiscal-year basis, the portion of the profits so derived which is determined by the Board to be equal to the same percentage of the total profits so derived as the percentage of completion of the contract prior to the termination date; and

(B) in all other cases, the profits so derived which are received or accrued prior to the termination date;

(b) Subsection (h) (2) of the 1943 act defines the "termination date" as follows:

(A) December 31, 1944; or

(B) If the President not later than December 1, 1944, finds and by proclamation declares that competitive conditions have not been restored, such date not later than June 30, 1945, as may be specified by the President in such proclamation as the termination date; or

(C) If the President, not later than June 30, 1945, finds and by proclamation declares that competitive conditions have been restored as of any date within six months prior to the issuance of such proclamation, the date as of which the President in such proclamation declares that competitive conditions have been restored;

except that in no event shall the termination date extend beyond the date proclaimed by the President as the date of the termination of hostilities in the present war, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

[RR 371]

§ 1603.372 *Termination date of Renegotiation Act specified as June 30, 1945.* Proclamation 2631 executed by the President; specified June 30, 1945, as the termination date within the meaning of subsection (h) of the Renegotiation Act. (See § 1608.808.) [RR 372]

SUBPART H—COSTS ALLOCABLE AND ALLOWABLE AGAINST RENEGOTIABLE BUSINESS

§ 1603.380 *Scope of subpart.* When the amount of the contractor's business subject to renegotiation has been determined, it is necessary to determine the costs properly chargeable against the business in order to find the amount of profits derived therefrom. This subpart discusses the principles for determining the allocation and allowance of such costs. [RR 380]

§ 1603.381 *Statutory provisions and general regulations.* [RR 381]

§ 1603.381–1 *Determination of costs.* Subsection (a) (4) (B) of the 1943 act provides:

(B) The term "profits derived from contracts with the Departments and subcontracts" means the excess of the amount received or accrued under such contracts and subcontracts over the costs paid or incurred with respect thereto. Such costs shall be determined in accordance with the method of cost accounting regularly employed by the contractor in keeping his books, but if no such method of cost accounting has been employed, or if the method so employed does not, in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States does properly reflect such costs. Irrespective of the method employed or prescribed for determining such costs, no item of cost shall be charged to any contract with a Department or subcontract or used in any manner for the purpose of determining such cost, to the extent that in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States, such item is unreasonable or not properly chargeable to such contract or subcontract. Notwithstanding any other provisions of this section, all items estimated to be allowable as deductions and exclusions under Chapters I and 2 E of the Internal Revenue Code (excluding taxes measured by income) shall, to the extent allocable to such contracts and subcontracts (or, in the case of the recomputation of the amortization deduction, allocable to contracts with the Departments and subcontracts), be allowed as items of cost, but in determining the amount of excessive profits to be eliminated proper adjustment shall be made on account of the taxes so excluded, other than Federal taxes, which are attributable to the portion of the profits which are not excessive.

[RR 381.1]

§ 1603.381–2 *"Recomputation" of amoritization deduction prior to renegotiation—carry-overs and carry-backs.* Subsection (a) (4) (C) of the 1943 act provides:

(C) Notwithstanding any of the provisions of this section to the contrary, no amount shall be allowed as an item of cost (i) by reason of a recomputation of the amortization deduction pursuant to section 124 (d) of the Internal Revenue Code until after such recomputation has been made in connection with a determination of the taxes imposed by Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code for the fiscal year to which the excessive profits determined by the renegotiation are attributable or (ii) by reason of the application of a carry-over or carry-back under any circumstances. The absence of such a recomputation of the amortization deductions referred to in clause (i) above shall not constitute a cause for postponing the making of an agreement, or the entry of an order, determining the amount of excessive profits, or for staying the elimination thereof.

[RR 381.2]

§ 1603.381–3 *Renegotiation rebate where "recomputation" of amortization deduction follows renegotiation.* Subsection (a) (4) (D) of the 1943 act provides:

(D) Notwithstanding any of the provisions of subsection (c) (4) of this section to the contrary, in the case of a renegotiation which is made prior to such recomputation, there shall be repaid by the United States (without interest) to the contractor or subcontractor after such recomputation the amount of a net renegotiation rebate computed in the following described manner. There shall first be ascertained the portion of the excessive profits determined by the renegotiation which is attributable to the fiscal year with respect to which a net renegotiation rebate is claimed by the contractor or subcontractor (herein referred to as "renegotiated year"). There shall then be ascertained the amount of the gross renegotiation rebate for the renegotiated year, which amount shall be an allocable part of the additional amortization deduction which is allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code in connection with the determination of the taxes for such year and which is attributable to contracts with the Departments and subcontracts, except that the amount of the gross renegotiation rebate shall not exceed the amount of excessive profits eliminated for the renegotiated year pursuant to the renegotiation. The allocation of the additional amortization deduction attributable to contracts with the Departments and subcontracts, and the allocation of the additional amortization deduction to the renegotiated year shall be determined in accordance with regulations prescribed by the Board. There shall then be ascertained the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for the renegotiated year. Such Federal tax benefit shall be the amount by which the taxes for the renegotiated year under Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code were decreased by reason of omitting from gross income (or by reason of the application of the provisions of section 3806 (a) of the Internal Revenue Code with respect to) that portion of the excessive profits for the renegotiated year which is equal to the amount of the gross renegotiation rebate. The amount by which the gross renegotiation rebate for the renegotiated year exceeds the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for such year shall be the amount of the net renegotiation rebate for such year.

[RR 381.3]

§ 1603.381–4 *Profit, cost allocation and allowance; general*—(a) *Profit.* The term "profits derived from contracts with the Departments and subcontracts" is defined by the act as the excess of the amount received or accrued under contracts and subcontracts over the costs paid or incurred with respect thereto. The term "costs" includes selling, general and administrative expenses. In connection with renegotiation on an overall fiscal-year basis income received or accrued and items of cost paid or incurred will be considered as having been received or accrued or paid or incurred in the fiscal year to which such items are to be attributed in accordance with the method of accounting employed by the contractor or subcontractor in keeping his books or in accordance with such other method of accounting as the contractor and the Department conducting the renegotiation may agree upon pursuant to the provisions of §§ 1603.301 and 1603.303. The method of accounting employed in determining the net income of the contractor or subcontractor for Federal income tax purposes shall be deemed to be the method of accounting employed by him in keeping his books. When the contractor requests that renegotiation be conducted on a completed contract basis, receipts and accruals and costs paid or incurred will be determined in accordance with the method agreed upon in connection with the granting of such request.

(b) *Allocation of cost.* In general the costs paid or incurred with respect to renegotiable contracts will be those costs allocated thereto by the contractor's established cost accounting method if that method reflects recognized accounting principles and practices. If, in the opinion of the War Contracts Board there is no adequate or effective cost accounting method in use, or if the method employed does not properly reflect such costs because there are unjustified or improper allocations of items of cost in the accounting records or in the reports or statements filed for the purpose of renegotiation, costs shall be determined in accordance with such method as in the opinion of the Board properly reflects such costs. No item of cost shall be charged to any contract or subcontract or used in any manner in determining costs to the extent that such

item is not properly chargeable to such contracts or subcontracts.

(c) *Tax deductions.* Costs allocable to renegotiable business shall be determined in accordance with the principles set forth above. Where the full amount of an item of cost is allocable to renegotiable business, it shall be allowed in the amount estimated by the War Contracts Board, or any agency to which its functions have been delegated, to be allowable as a deduction or exclusion under Chapters 1 and 2E of the Internal Revenue Code. No such item of cost shall be allowed in an amount less than or in excess of that which is estimated to be deductible or excludible from income under the Internal Revenue Code, and all items of cost shall be attributed to the fiscal year in which they are allowable in the determination of taxable income under said Code. Where only a portion of an item of cost is allocable to renegotiable business, the War Contracts Board, or any agency to which its functions have been delegated, shall estimate the total amount allowable to the contractor, as a deduction or exclusion under Chapters 1 and 2E of the Internal Revenue Code and the portion of this estimated amount which is allocable to renegotiable business in accordance with the principles set forth above shall be allowed as a cost of renegotiable business. Where it is clear that a contractor's deductions and exclusions under the Internal Revenue Code result in allowable costs of renegotiable business which are either high or low on a comparative basis, this circumstance shall be considered in connection with the factor of the "reasonableness of costs" of the contractor and the determination of the amount of the profit adjustment to be required of the contractor.

(d) *Conditional allowance of cost.* The estimate of the renegotiating agency as to whether an item is allowable as a deduction or exclusion under Chapters 1 and 2E of the Internal Revenue Code will, with the exception discussed hereafter in this paragraph, be final for the purposes of renegotiation regardless of the difficulty of making such an estimate. However, in a few special cases it may be impossible for the agency to make any reasonable estimate as to whether or to what extent a particular item is allowable as a deduction or exclusion under the Internal Revenue Code for the fiscal year under renegotiation. In such special cases where the item is substantial in relation to the profits to be eliminated, the renegotiating agency may, subject to the restrictions set forth below, allow the item as a cost in renegotiation on the condition that in the renegotiation agreement the contractor will agree to refund as additional excessive profits, the amount so allowed as a cost of renegotiable business which is finally determined to be not allowable as a deduction or exclusion under the Internal Revenue Code for the fiscal year in which it was so allowed in renegotiation. If such conditional allowance is desirable, the renegotiating agency will observe the following procedure:

(1) The renegotiating agency, prior to making the conditional allowance, shall transmit to the Chairman of the Price Adjustment Board of the Department concerned, a statement setting forth the approximate amount of excessive profits to be finally eliminated and the amount of the item to be conditionally allowed in determining such excessive profits, a full description of the facts and the reasons why the agency is unable to determine whether the item should be allowed or disallowed as a cost, and a copy of the special clause proposed to be included in the renegotiation agreement.

(2) The renegotiating agency shall, at the same time, advise the Chairman of the Price Adjustment Board of the Department concerned whether the financial condition of the contractor appears to be such as to justify postponement of final determination of the allowability of the item as a cost.

(3) The Chairman of the Price Adjustment Board of the Department concerned, in his discretion, may authorize the conditional allowance and the use of a special clause, or may advise the renegotiating agency that the item should be unconditionally allowed or disallowed as a cost in renegotiation, or may instruct the renegotiating agency to treat the item in such other manner as the Chairman, in his discretion, may consider appropriate. Additional provisions may be prescribed for insertion in the renegotiation agreement to assure payment by the contractor of any amounts which may become due in the future by reason of the special clause, if, in the opinion of the Chairman, the financial condition of the contractor is such that the interests of the Government require the same.

(e) *Costs previously allowed in renegotiation.* No item of cost shall be deemed "properly chargeable" against or "allocable" to renegotiable business to the extent that such item has, in a previous renegotiation, been charged against or allocated to renegotiable business in determining excessive profits, notwithstanding that such item may be a deduction or exclusion under Chapters 1 and 2E of the Internal Revenue Code in computing taxable net income for the taxable period corresponding to the fiscal period covered by the current renegotiation. [RR 381.4]

§ 1603.381–5 *Costs allocable to uncompleted portions of terminated contracts and subcontracts*—(a) *Allowed in renegotiation.* Costs allocable to the uncompleted portion of any terminated contract or subcontract will be allowed as items of cost in renegotiation unless (1) allocable to a terminated contract or subcontract which is exempt or has been exempted from renegotiation or, (2) the determination or the settlement agreement made with respect to the termination claim under such contract or subcontract has been exempted from renegotiation pursuant to proper authority. (See § 1603.324.) Such costs will be allowed, however, only to the extent, and for the fiscal year for which, they are estimated to be deductible in the computation of taxable income under the Internal Revenue Code (see Bureau of Internal Revenue Mimeograph No. 5766 reproduced herein at § 1608.852–6) and will not be allowed to the extent theretofore allowed as items of cost in a previous renegotiation.

(b) *Segregation of costs allocable to uncompleted portions of terminated contracts and subcontracts.* Unless (1) the costs allocable to the uncompleted portions of terminated contracts and subcontracts constitute a substantial proportion of all of the contractor's costs allocable to renegotiable contracts and subcontracts and (2) the nature or the proportions of such costs are substantially different from the nature or the proportions of costs allocable to completed contracts and subcontracts or the completed portions of contracts and subcontracts (e. g., the ratio of material costs to direct labor is substantially different), it will not be necessary to segregate the costs allocable to the uncompleted portions of terminated contracts and subcontracts from other costs allocable to renegotiable contracts and subcontracts. Such segregation of costs allocable to the uncompleted portions of terminated contracts and subcontracts may be required to be made in such general or such detailed manner as the renegotiating agency may deem necessary to an appropriate appraisal of the contractor's performance with respect to the uncompleted portions of terminated contracts and subcontracts in the light of the statutory factors applied in determining excessive profits (see § 1604.408).

(c) *Effect of waiver of termination claim.* The principles stated in paragraphs (a) and (b) of this section with respect to the allowance of costs allocable to the uncompleted portions of terminated contracts and subcontracts and the segregation of such costs are equally applicable whether or not the contractor has waived all or any part of the compensation to which he might be entitled under termination claims. [RR 381.5]

§ 1603.382 *Salaries, wages and other compensation.* [RR 382]

§ 1603.382–1 *Allocation.* Salaries, wages and other compensation should be allocated between renegotiable and nonrenegotiable business according to principles established in § 1603.381–4. [RR 382.1]

§ 1603.382–2 *Allowances.* (a) Under section 23 (a) of the Internal Revenue Code, salaries or other compensation for personal services are allowed to the extent found "reasonable". In determining whether any salaries or other compensation paid by a contractor to its officers or employees are unreasonable, consideration shall be given to the nature of the work, extent of responsibility, experience and effectiveness of the officer or employee, and increases in compensation since January 1, 1941. Comparison shall be made where possible with the compensation of officers or employees in similar positions in other companies within the particular industry. Reasonableness of compensation may be determined only within broad limits, and weight shall be given to the determination by the contractor of the worth to

it of the services of an officer or employee.

(b) Whether or not the profit and loss statement of a partnership includes salaries or drawing accounts for partners as an expense, a so-called "salary allowance" may be made for reasonable salaries for such partners as are active in the business in determining the amount of excessive profits to be eliminated.

(c) Reasonable salaries paid to employees who are absent on military or naval service or who are serving the Government in other ways at a nominal compensation but who intend to return at the conclusion of the emergency will be allowed as a cost if such salaries are paid under some standard arrangement adopted by the contractor for general application, and are properly allocated between renegotiable and non-renegotiable business. [RR 382.2]

§ 1603.382–3 *Wage and salary stabilization.* (a) The renegotiating agency, in considering wages and salaries as costs, will observe the provisions of the Stabilization Act of 1942, approved October 2, 1942, as amended, and all Executive orders and regulations issued pursuant to said act.

(b) The Director of Economic Stabilization has issued regulations effective October 27, 1942, and amended regulations effective August 28, 1943.

(c) The Commissioner of Internal Revenue has issued regulations covering that portion of salary stabilization which is administered by the Commissioner.

(d) The National War Labor Board has issued directives setting forth its policies with respect to that portion of the wage and salary stabilization which is administered by such Board.

(e) In any case in which the renegotiating agency determines that there may have been a violation of any applicable stabilization law, executive order or regulation, the renegotiating agency will promptly submit all of the pertinent facts to the War Contracts Price Adjustment Board for a decision as to the proper procedure to be followed.

(f) Full compliance with the Stabilization Act does not preclude the disallowance as a deduction under the Internal Revenue Code of wage and salary payments in excess of "a reasonable allowance". No part of any amount estimated to be not allowable under the Internal Revenue Code will be allowed as a cost against renegotiable business. [RR 382.3]

§ 1603.382–4 *Application of stabilization orders in renegotiation.* For fiscal years ending after October 27, 1942, the only limitation on salaries other than the usual test of reasonableness, is the prohibition (with exceptions) of increases in salary rate of over $5,000 annually, existing on October 3, 1942, and in salary rate of $5,000 or less annually, existing on October 27, 1942, without prior approval of governmental authorities. The exceptions referred to are set out in § 1608.851. They first appeared in section 6 of the stabilization regulations and later in substantially similar form in section 10 of the amended stabilization regulations referred to in § 1603.382–2 (b). As set out in § 1608.851, they appear in the form contained in the amended stabilization regulations. [RR 382.4]

§ 1603.382–5 *Brokers' commissions.* Commissions paid or payable to brokers or agents in connection with the procurement or performance of war contracts pursuant to a legally binding arrangement made in good faith prior to the fiscal year covered by the renegotiation will be allowed as a cost in the absence of special circumstances. Such special circumstances might exist where the broker or agent was a partner, officer or director of the contractor; or where any partner, officer or director of the contractor participated in the commissions paid to the broker or agent; or where the original arrangement between the contractor and the broker or agent was not made at arm's length. If it appears that the payment of the commissions might violate the provision in the contracts of any Department against contingent fees other than those paid to "bona fide established commission or selling agencies maintained by the contractor for the purpose of securing business", the question ordinarily will be taken up with the Purchases Division, Army Service Forces, the Procurement Legal Division of the Navy Department, or the appropriate division of the other Departments, and, subject to the provisions of § 1603.381–4 (b), the commissions may be disallowed. Whenever the payment of commissions is allowed to the contractor, consideration will be given to the prompt renegotiation of the broker or agent if the services he performed bring him within the definition of "subcontractor". (See §§ 1602.203–4 and 1603.336.) [RR 382.5]

§ 1603.382–6 *Pension, annuity, stock bonus and profit sharing plans.* The policy set out below will be followed in connection with the allowance as an item of cost against renegotiable business of payments made by a contractor on account of any employee pension, annuity, stock bonus, or profit sharing plan (hereinafter referred to as "the plan").

(a) The deductibility for Federal income tax purposes of payments pursuant to the plan is governed by sections 23 (a), 23 (p) and 165 of the Internal Revenue Code. If the Bureau of Internal Revenue has determined that payments (including payments to bring annuities up to date) on account of the plan of the particular contractor concerned are deductible, such payments shall be allowed as an item of cost in renegotiation to the extent allocable to renegotiable business.

(b) If the Bureau of Internal Revenue has not finally determined the deductibility of such payments, the renegotiating Department must estimate the amount of such payments which is allowable as a deduction under sections 23 (a), 23 (p) and 165 of the Internal Revenue Code. The Department will be guided by the following general principles:

(1) The employer's payment into the plan, when added to other compensation paid the employee, cannot exceed reasonable compensation for services rendered by the employee beneficiary of the plan.

(2) The employees' rights under the plan must be nonforfeitable at the time the employer's payment is made or the plan must qualify under the provisions of section 165 of the Internal Revenue Code. In determining whether it does so qualify, the renegotiating agency should consult section 165 and the appropriate Treasury Regulations for the exact requirements for qualification. In general, the following requirements must be met: (i) The plan must imply a permanent as distinguished from a temporary program; (ii) it must not be a subterfuge for distribution of profits; (iii) it must be for the exclusive benefit of employees; (iv) it must be impossible, under the trust, to divert the trust property or income to purposes other than the employees' benefit; (v) it must cover a sufficient number of employees so as to be non-discriminatory; and (vi) in operation, the plan must not discriminate in favor of employees who are officers, stockholders or highly compensated employees. A plan which qualifies under the foregoing is not disqualified by the fact that the employer may be entitled to receive back amounts which result from erroneous actuarial computations.

(3) The payments on account of the plan, to be allowed as deductions for Federal income tax purposes, must actually have been paid within the taxable year except that as to payments into a qualified plan, a taxpayer on an accrual basis of accounting is deemed to have made a payment on the last day of the year if the payment is on account of such taxable year and is made within 60 days after the close of the taxable year of accrual.

(c) Payments made pursuant to any plan, like any other expense, should be allowed only to the extent allocable to renegotiable business, such amount to be determined in accordance with the principles applicable to the allocation of expenses generally. [RR 382.6]

§ 1603.383 *Amortization and depreciation.* [RR 383]

§ 1603.383–1 *Allocation.* (a) General depreciation, maintenance and other such charges should be allocated between renegotiable and non-renegotiable business according to the principles established in § 1603.381–4.

(b) Where stand-by facilities are customary or necessary to a particular type of business, the cost of depreciation, maintenance, etc., should be allocated between renegotiable and non-renegotiable business according to the principles established in § 1603.381–4.

(c) Statutory amortization on facilities covered by certificates of necessity should be allocated between renegotiable and non-renegotiable business, according to the principles established in § 1603.381–4, giving consideration, however, to the basis of original issuance of such certificates where the facilities are not in active use.

(d) Depreciation and maintenance charges on properties which are not in use but which are being maintained in an idle status pursuant to written re-

quest of an authorized official of a Department may be allocated as a charge against renegotiable business. [RR 383.1]

§ 1603.383–2 *Accelerated amortization and renegotiation rebate.* (a) Under section 124 of the Internal Revenue Code, a contractor who has acquired or constructed with his own funds facilities especially adapted for use in war production may, upon securing a Certificate of Necessity, amortize their cost over a five-year period, at the rate of 20 per cent per year. Prior to December 17, 1943, the Secretary of War and the Secretary of the Navy were by such statute authorized to act upon application for Certificates of Necessity. Under Executive Order 9406, dated December 17, 1943, as amended by Executive Order No. 9429, dated March 2, 1944, this authority (except with reference to certain pending applications) was transferred to the War Production Board. The Facilities Bureau of the War Production Board will pass upon requests for such Certificates made after December 17, 1943.

(b) Amortization so allowed at the rate of 20 percent per year under section 124 of the Internal Revenue Code shall be allowed as an item of cost for purposes of renegotiation, to the extent it is properly allocable to renegotiable business.

(c) If the emergency is terminated during the five-year period, or if the Chairman of the War Production Board pursuant to Executive Orders 9486 and 9487, each dated September 30, 1944, certifies that an emergency facility ceases to be necessary for national defense, the amortization period may for Federal tax purposes be shortened accordingly, and the contractor will be entitled to adjust his taxes for prior years, on the conditions stated in the Internal Revenue Code, to give effect to the corresponding increase in the deduction taken in each such year. Executive Order 9487 has been amended in a minor respect by Executive Order 9490.

(d) Under subsection (a) (4) (C) of the 1943 act, no allowance as an item of cost in renegotiation shall be made on account of the increased amortization deduction referred to in the preceding paragraph (c) unless the computation thereof is made by the Bureau of Internal Revenue, in connection with an adjustment of taxes pursuant to section 124 (d) of the Internal Revenue Code, before the renegotiation is concluded. The Department shall not, however, permit the absence of such a recomputation of the amortization deduction to be a cause for postponing closing a renegotiation agreement.

(e) Subsection (a) (4) (D) of the 1943 act provides for payment of a renegotiation rebate to the contractor in those cases where the increased amortization deduction for a prior tax year is so computed by the Bureau of Internal Revenue after the determination of excessive profits has been made by agreement or order. No computation of the increased amortization deduction incident to the tax adjustment above referred to can be made until the Chairman of the War Production Board has issued a Non-Necessity Certificate to the effect that the emergency facility has ceased to be necessary in the interest of national defense during the emergency period. [RR 383.2]

§ 1603.383–3 *Depreciation.* (a) War facilities not covered by Certificates of Necessity, representing permanent capital additions for the manufacture of war products or materials, are depreciated in accordance with the provisions of the Internal Revenue Code and will be depreciated in renegotiation, at the ordinary rates of depreciation for corresponding property.

(b) A Department conducting a renegotiation may allow depreciation on machinery and equipment at higher than ordinary rates when, because of its use for extraordinary consecutive periods of day and night shifts, or other circumstances, it is concluded that such higher rates would be allowable under the Internal Revenue Code. [RR 383.3]

§ 1603.384 *Conversion to war production.* The full amount of costs of converting facilities to war production which do not represent permanent additions, such as rearrangement of machinery, is allowed by the Bureau, and will be allowed in renegotiation, for the year in which it is incurred to the extent allocable to renegotiable business. This does not include losses on commercial inventory which has become unsaleable as a result of wartime regulations or loss of market, for such losses are not properly allocable to renegotiable business. [RR 384]

§ 1603.385 *Losses.* [RR 385]

§ 1603.385–1 *Costs or losses on non-war ventures.* Losses and costs incurred in connection with business activities or ventures not connected with renegotiable business will be charged against such business activities or ventures and not to renegotiable business. [RR 385.1]

§ 1603.385–2 *War losses.* Section 127 of the Internal Revenue Code provides that the amount of the loss on account of property destroyed or seized on or after December 7, 1941, in the course of military or naval operations by the United States or any other country engaged in the present war may be allowed as a deduction from income in the year in which such destruction or seizure occurs. The fact that the property has been destroyed or seized in the course of the war does not of itself however, establish that the loss is properly allocable to renegotiable business. Such a loss may be recognized in renegotiation only to the extent it is properly chargeable against renegotiable business. [RR 385.2]

§ 1603.385–3 *Losses from prior or subsequent years.* Subsection (a) (4) (C) of the 1943 act prohibits the allowance of any amount as an item of cost by reason of the application of a carry-over or carry-back. Therefore, notwithstanding that section 122 of the Internal Revenue Code authorizes a taxpayer, under certain prescribed rules, to take a deduction for a taxable-year by a "carry-over" or "carry-back" of net operating losses for certain preceding or subsequent taxable years, no such deduction shall be allowable in renegotiation as an item of cost or as a deduction or exclusion from excessive profits. [RR 385.3]

§ 1603.385–4 *Losses from sale or exchange of facilities used in performing renegotiable contracts or subcontracts.* (a) If, as a result of the sale or exchange of tangible property used in performing renegotiable contracts or subcontracts with respect to which depreciation is allowable under section 23 (l), or amortization is allowable under section 124, of the Internal Revenue Code, a contractor sustains a loss, there will be allowed as an item of cost chargeable to renegotiable contracts and subcontracts an amount equal to that portion of such loss which bears the same ratio to the whole of such loss as the aggregate amount of depreciation or amortization on such property allocable to renegotiable business for all fiscal years of the contractor to the date of such sale or exchange bears to the total amount of depreciation or amortization allowed or allowable on such property as a deduction in computing taxable income of the contractor under the Internal Revenue Code for all taxable years to the date of such sale or exchange; subject, however, to the provisions of paragraphs (d) and (e) of this section.

(b) If, as a result of the sale or exchange of land used in performing renegotiable contracts or subcontracts, a contractor sustains a loss, there will be allowed as an item of cost chargeable to renegotiable contracts and subcontracts an amount which shall be determined as follows:

(1) To each taxable year beginning with the year of acquisition of such land and including the year of sale or exchange thereof, there shall be allotted an equal share of such loss;

(2) The renegotiating agency shall then determine (by estimate, if necessary) the portion of such share allotted to each taxable year which is allocable to the use of such land in performing renegotiable contracts or subcontracts in such year;

(3) The amount to be allowed as an item of cost, as hereinabove provided, will be an amount equal to the aggregate of the portions of the shares of such loss determined as provided in subparagraph (2) of this paragraph; subject, however, to the provisions of paragraphs (d) and (e) of this section.

(c) In any case in which property of the character described in paragraph (a) above and land of the character described in paragraph (b) above are sold for a lump sum or disposed of in such manner as does not properly allocate the sales prices of the two types of property, the renegotiating agency shall make an allocation of the sale price or sales prices as between the two types of property upon such basis as it may deem appropriate in order to determine whether, and, if so, what part of, the loss is attributable to each such type of property, so

as to enable it to fix the amount which, in accordance with the foregoing paragraphs (a) and (b), may be properly allowed as an item of cost in the renegotiation proceeding.

(d) Notwithstanding any of the provisions of the foregoing subdivisions of this subparagraph, there shall be allowed as items of cost as a result of losses sustained on the sale or exchange of property of the character described in paragraph (a) or (b) of this section, only the excess of the aggregate of the amounts of such items, computed without regard to the limitations prescribed by this paragraph, over an amount equal to the aggregate of the portions of the gains (computed in the same manner as is prescribed in paragraphs (a), (b) and (c) of this section with respect to losses) realized in the same fiscal year from the sale or exchange of property of the character described in paragraphs (a) and (b) of this section.

(e) For the purposes of this paragraph, the gain or loss resulting from the sale or exchange of property of the character described in paragraph (a) or (b) of this section shall be taken into account only to the extent, and for the fiscal year for which, such gain or loss is taken into account in computing gains and losses under section 117 (j) (2) (A) of the Internal Revenue Code. In the case of the sale or exchange of property of such character held for less than six months (to which section 117 (j) of the Code is inapplicable) gain or loss shall be taken into account to the extent, and for the fiscal year for which, such gain or loss is otherwise taken into account in the computation of taxable income under the Internal Revenue Code.

(f) Any item of cost hereinabove in this section provided to be allowed shall be allowed without regard to whether any sale or exchange concerned was made under a contract or subcontract which is exempt or excluded from renegotiation. [RR 385.4]

§ 1603.386 *Interest.* [RR 386]

§ 1603.386–1 *Allocation.* (a) All interest on borrowed funds shall be allocated between renegotiable and nonrenegotiable business according to the principles established in § 1603.381–4.

(b) Where a contractor has incurred obligations obviously disproportionate to the current volume of business, careful study should be made to ascertain the total amount of interest to be distributed in accordance with the above procedure. [RR 386.1]

§ 1603.386–2 *Allowance.* Interest on borrowed capital is deductible under the Internal Revenue Code and will, therefore, be allowed in renegotiation to the extent allocable to renegotiable business. [RR 386.2]

§ 1603.387 *Advertising expenses.* [RR 387]

§ 1603.387–1 *Allocation.* Institutional advertising (designed to keep the advertiser's name or the identity of his peacetime products before the public) should ordinarily be allocated between renegotiable (including business done under cost-plus-fixed-fee or other similar contractual arrangements) and non-renegotiable business on a pro rata basis in the amount allowed in accordance with the provision of § 1603.387–2 hereof. Product advertising (specifically offering individual products for current sale) is ordinarily allocable to non-renegotiable business. However, where a contractor's normal volume of peacetime products has been wholly or partly replaced by war products, an amount of product advertising not inconsistent with the past practice of the business may be considered as essentially institutional advertising and allocated on the same basis. [RR 387.1]

§ 1603.387–2 *Allowance.* (a) In estimating the amount allowable under the Internal Revenue Code as a deduction for advertising expenses, consideration will be given to the following statement issued by the Commissioner of Internal Revenue on September 29, 1942:

> To be deductible, advertising expenditures must be ordinary and necessary and bear a reasonable relation to the business activities in which the enterprise is engaged. The Bureau recognizes that advertising is a necessary and legitimate business expense so long as it is not carried to an unreasonable extent or does not become an attempt to avoid proper tax payments.
>
> The Bureau realizes that it may be necessary for taxpayers now engaged in war production to maintain through advertising, their trade names and the knowledge of the quality of their products and good will built up over past years, so that when they return to peacetime production their names and the quality of their products will be known to the public.
>
> In determining whether such expenditures are allowable, cognizance will be taken of (1) the size of the business, (2) the amount of prior advertising budgets, (3) the public patronage reasonably to be expected in the future, (4) the increased cost of the elements entering into the total of advertising expenditures, (5) the introduction of new products and added lines, and (6) buying habits necessitated by war restrictions, by priorities, and by the unavailability of many of the raw materials formerly fabricated into the advertised products.
>
> Reasonable expenses incurred by companies in advertising and advertising technique to speed the war effort among their own employees, and to cut down accidents and unnecessary absences and inefficiency, will be allowed as deductions. Also reasonable expenditures for advertisements, including the promotion of Government objectives in wartime, such as conservation, salvage, or the sale of War Bonds, which are signed by the advertiser, will be deductible provided they are reasonable and are not made in an attempt to avoid proper taxation.

(b) Expenditures for advertising which does not identify the particular company or product but which is solely for the purpose of aiding the war effort may, subject to certain limitations, be deductible as contributions for public purposes under section 23 (o) or 23 (q) of the Internal Revenue Code (see special ruling by the Commissioner of Internal Revenue on this question, dated November 10, 1942).

(c) In considering advertising expenditures in connection with the determination of the "reasonableness of costs" of the contractor's business, the relationship between advertising costs and sales in present and past periods should be considered and a determination made as to whether or not the total advertising costs are reasonable and proper under the circumstances. [RR 387.2]

§ 1603.388 *Other costs, expenses and reserves.* [RR 388]

§ 1603.388–1 *Patent royalties.* (a) When in renegotiation, a contractor has included substantial amounts in costs for royalties, paid or payable under patent licenses, the Departments will determine whether any action has been taken, or is pending or contemplated under the Royalty Adjustment Act (see § 1601.141), and will be guided by the principles set out below.

(b) An order under the Royalty Adjustment Act fixing the rates and amounts of royalties to be paid under a license agreement has no legal effect retroactively. The order applies only to royalties, irrespective of when payable, which are unpaid to the licensor on the effective date of the notice under the statute, whether accruing before or after the effective date of the notice, and does not and cannot require the refund of any royalties which have been paid to the licensor prior to said effective date.

(c) In determining excessive profits of a licensee upon renegotiation for a period in which royalty accruals are covered by an order or agreement under the Royalty Adjustment Act, the renegotiating agency will give full effect to the rates or amounts of royalties fixed in the Royalty Adjustment Act order or agreement as fair and just under the conditions of wartime production. No allowance will be made in renegotiation for royalties paid or accruing during that period in excess of the amounts permitted or provided to be paid under such order or agreement. With respect to renegotiation with a licensor, see § 1603.334–3.

(d) Rates or amounts of royalties fixed as fair and just in a Royalty Adjustment Act order or agreement which does not cover all or some part of the period involved in the renegotiation will not be controlling as to the reasonableness of the royalties paid or accrued by the licensee for such period or such part thereof as is not covered by the order or agreement. In such a case as well as in one where no action under the Royalty Adjustment Act is involved, the renegotiating Department will estimate the amount of the royalties allowable as a deduction for Federal income tax purposes. Ordinarily the licensee will be allowed to include in his costs royalties properly allocable to renegotiable business provided they are actually paid to the licensor prior to the service of a notice in any royalty adjustment proceedings. However, an amount paid pursuant to an arrangement not entered into at arm's length or without a full disclosure of interest, or in bad faith, should be disallowed as an item of cost if it is not an "ordinary and necessary" business expense within the meaning of section 23 (a) of the Internal Revenue Code. Particular attention should be given to any relationship or affiliation to the licensor; for example, where the licensor

was a partner, officer or director of the licensee; or where any partner, officer or director of the licensee participated in the royalties paid to the licensor.

(e) In determining excessive profits of a licensor under the renegotiation statute, where the licensor sells the patented article in competition with like articles sold by other under license from the licensor, the licensor will not include in his costs any development charges except such amortization and development expenses as, it is estimated, are allowable as deductions under the Internal Revenue Code, even though the obligation to pay the royalties requires his licensees to charge a higher price for the competing product.

(f) No royalties paid or incurred by a licensee and no amortization or development expense charged by a licensor will be allocated as a cost in determining excessive profits under the renegotiation statute, whether or not allowable as a deduction under the Internal Revenue Code, unless such payments or charges are allocable to the sales made under contracts subject to renegotiation. In deciding this question as to any particular patent, the Departments should consider the extent to which the products sold involve the use of the invention or inventions covered by the patent, and as a general rule it should appear that the patent has not expired, that no final adjudication has been made by a court of competent jurisdiction holding the patent invalid, and that it is not in fact the property of the licensee. [RR 388.1]

§ 1603.388–2 *Corporate charitable contributions.* Contributions of the character described in section 23 (q) of the Internal Revenue Code by a corporation will, to the extent allocable, be allowed as an expense against renegotiable business if such contributions are allowable as deductions in the fiscal year concerned for Federal income tax purposes under section 23 (q). [RR 388.2]

§ 1603.388–3 *Cost allowance in connection with raw materials.* Reference is made to §§ 1603.344–3 and 1603.344–4 for a discussion of the non-renegotiable nature of certain excess raw material inventory and the allowance to be made for the value of exempt raw materials. [RR 388.3]

§ 1603.389 *State income taxes.* [RR 389]

§ 1603.389–1 *In general.* Under subsection (a) (4) (B) of the 1943 act, taxes measured by income cannot be allowed as items of cost for purposes of renegotiation. However, this subsection provides specifically that in determining the amount of excessive profits to be eliminated, proper adjustment shall be made on account of the taxes measured by income (other than Federal taxes) so excluded, which are attributable to non-excessive renegotiable profits. The amount of any such adjustment will in no case exceed that part of such taxes actually payable which is payable because of the inclusion in income of the non-excessive renegotiable profits. The term "taxes measured by income" is interpreted to mean taxes which vary in accordance with the amount of net income of the taxpayer. Such term does not include taxes imposed upon or measured by gross income, gross receipts or sales. Such taxes measured by net income are herein referred to generally as "state income taxes" although actually they may not be designated as "income taxes" in the legislation imposing such taxes, and although they may be imposed by political sub-divisions other than a state. For the effect of the floor provision limiting refunds of excessive profits, see § 1603.348–3 (e). [RR 389.1]

§ 1603.389–2 *Adjustment for State tax imposed at a "flat rate".* (a) The amount of unadjusted excessive profits, without consideration of any state income tax, is first determined. This amount is then deducted from renegotiable profits to obtain the amount of non-excessive renegotiable profits. The state income tax attributable to such non-excessive renegotiable profits is computed and this amount is deducted from the unadjusted excessive profits. The remainder constitutes the excessive profits to be eliminated subject of course to any Federal-tax credit to which the contractor may be entitled under section 3806 of the Internal Revenue Code. (See § 1604.440 and following.) If the contractor has a loss on non-renegotiable business, the unadjusted excessive profits will be deducted from the total profits (including renegotiable and non-renegotiable business) to obtain the tentative retained profits. The tax attributable to the non-excessive renegotiable profits will then be the amount of tax computed on such tentative retained profits.

(b) The general method of calculation is illustrated by the example set forth in the reports of the House Committee on Ways and Means and the Senate Committee on Finance in dealing with subsection (a) (4) (B) of the 1943 act:

> For example, if the amount due on a contract is $1,000 and the cost is $800, the profit before adjustment for such tax is $200. Suppose that of the $200 profit, $90 is considered excessive before adjustment for the State tax. If in such case the State income tax on the remaining $110 is $11, then the $11 is to be applied against the $90, reducing to $79 the amount of excessive profits to be eliminated.

(c) The amount of unadjusted excessive profits (i. e. before the adjustment for state income tax) will be a "rounded" figure, but after the tax attributable to the non-excessive renegotiable profits has been ascertained, there will be no "rounding off" in deducting such amount from the unadjusted excessive profits to obtain the final amount of excessive profits to be eliminated. [RR 389.2]

§ 1603.389–3 *Adjustment for graduated State tax.* If the state income tax is imposed at graduated rates as distinguished from a "flat rate," the adjustment is to be made as follows:

(a) The contractor's total profits subject to the state tax, including nonrenegotiable and renegotiable profits, is determined. The unadjusted excessive profits are deducted from such total profits to obtain the contractor's tentative retained profits. The unadjusted excessive profits are also deducted from the renegotiable profits to obtain the nonexcessive renegotiable profits.

(b) The state tax on the tentative retained profits is computed as though such profits were the only profits of the contractor.

(c) The tax attributable to the non-excessive renegotiable profits will then be the amount which bears the same ratio to the tax computed in paragraph (b) above as the amount of non-excessive renegotiable profits bears to the tentative retained profits.

(d) The tax attributable to the non-excessive renegotiable profits computed in paragraph (c) is deducted from the unadjusted excessive profits to obtain the amount of excessive profits to be eliminated.

(e) If the contractor has a loss on non-renegotiable business, the tax attributable to the non-excessive renegotiable profits will be the amount of tax computed on the tentative retained profits determined as provided in paragraph (a) above. [RR 389.3]

§ 1603.389–4 *Multiple State income taxes.* If the contractor is doing business in more than one state, he may be subject to more than one income tax. In such event, the adjustment should be made by an accurate determination of the tax attributable to the non-excessive renegotiable profits imposed by each state, if such a computation is feasible. If an exact computation is not feasible, the adjustment should be made upon the best estimate of the renegotiating agency and the contractor, made in good faith and with reasonable care. This estimate may take the form of a pro-rata application to each state of the non-excessive renegotiable profits based upon the profits before renegotiation attributable to each state, if no more accurate method is available. If all such taxes are imposed at flat rates, a composite rate may be obtained by dividing total State income taxes by total profits, and this composite rate may be applied to the non-excessive renegotiable profits. [RR 389.4]

§ 1603.389–5 *State income tax measured by income for preceding year.* In some states, the tax is measured by the income for the year subject to renegotiation but is a liability of the contractor not for such year but for the next succeeding year. In this event, the adjustment for such tax will be made as though such tax measured by the income subject to renegotiation were in fact a liability for the year subject to renegotiation. [RR 389.5]

§ 1603.389–6 *Adjustment for State income tax of contractor operating as a partnership or sole proprietorship.* (a) A contractor doing business as a partnership or sole proprietorship is entitled to an adjustment for state income tax based upon the tax liability of the individual partners or of the proprietor. In general, the same procedure will be followed as stated above. Thus, in the case of a partnership, adjustment will be made for the aggregate of the state taxes attributable to each partner's share of non-excessive renegotiable profits.

(b) Normally the state income tax is imposed upon individuals on a graduated basis. Reference is therefore made to § 1603.389–3.

(c) If a contractor is a partnership or sole proprietorship and is subjected to an unincorporated business tax measured by income, adjustment must be made therefor as well as for the state income taxes of the partners or the proprietor.

(d) If a so-called "salary allowance" is made in renegotiation for the services of partners or proprietors, the amount of such "salary" allowed to each partner or to the proprietor will be deducted from the partner's or proprietor's share of the non-excessive renegotiable profits before calculation of the state income tax attributable to such non-excessive renegotiable profits. Such "salary allowance" will also be deducted before calculating any such unincorporated business tax adjustment. [RR 389.6]

PART 1604—DETERMINATION AND ELIMINATION OF EXCESSIVE PROFITS

SUBPART A—PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

SUBPART B—RECOVERY OF EXCESSIVE PROFITS ALREADY REALIZED

SUBPART C—PRICE REDUCTIONS FOR FUTURE DELIVERIES

SUBPART D—RENEGOTIATION AND TAXES

SUBPART A—PRINCIPLES AND FACTORS IN DETERMINING EXCESSIVE PROFITS

§ 1604.401 *Scope of subpart.* This subpart deals with general principles to be applied and certain factors which are specified in the act to be considered in the determination of excessive profits under the terms of the act. [RR 401]

§ 1604.402 *General considerations* [RR 402]

§ 1604.402–1 *General approach.* (a) Under war conditions the Government is the nation's principal buyer. Its purchases are paid for by taxation and borrowing. The lower the costs of production and the prices paid directly or indirectly by the Government, the less will be the financial burden on the people of the country. War materials are essential to the life of a nation at war. The Government as buyer must acquire these products and the producers of them, as a group, are the only sources of supply. Renegotiation protects the Government and the public on the cost of war goods purchased and against excessive profits arising from the prices paid for them. Control of price and profit through renegotiation is a general substitute for the pressure of competition on prices and profits in peacetime, which is largely eliminated in a war economy when the demand for war goods greatly exceeds the available supply.

(b) Sound pricing in many instances was difficult or impossible under the complications of such a vast and diversified volume of purchasing in terms of individual contracts. Renegotiation is intended to insure that prices charged for war products include only a reasonable profit after full consideration of all the pertinent facts and factors of a contractor's business over a full fiscal year's operations and after the actual costs and profits for the period have been established.

(c) Renegotiation is in effect an overall repricing, in which the contractor has the advantage of combining, in the fiscal year, prices, costs, and profits on all elements of his production after actual production experience. Prices are composed of costs and profits. Where the prices have been so high as to produce excessive profits, the adjustment of prices is accomplished primarily through an adjustment of the profits included in the prices.

(d) An important goal of renegotiation is to bring sufficient pressure on excessive prices to induce constructive action toward reductions in unit costs and subsequent reductions in prices.

(e) The Renegotiation Act contemplates the elimination of excessive profits from war production primarily through voluntary agreements between the contractor and the Government. It is intended that a just and reasonable wartime profit be allowed. It is not intended to reduce profits to the narrowest possible margin but to eliminate profits considered excessive and allow the contractor to retain a profit, computed before Federal taxes on income, in an amount that will represent reasonable compensation for war production in the light of the contractor's peacetime experience, expanded volume of production, efficiency, invested capital, risks assumed and other contributions to the prosecution of the war. However, it should be recognized that the weapons and war goods which the nation needs should be produced at a modest profit. [RR 402.1]

§1604.402–2 *General objectives.* The general objectives in renegotiation are briefly as follows:

(a) To eliminate profits which may be considered excessive after careful review of the circumstances of a contractor's business.

(b) To maintain or provide a substitute for competitive pressures on prices and costs.

(c) To induce reductions in prices and costs.

(d) To reward efficiency and stimulate production.

(e) To encourage prompt adjustment to a reasonable price basis when production experience indicates the original price basis was unreasonably high. [RR 402.2]

§ 1604.402–3 *Process of renegotiation.* In making renegotiation determinations, the Departments and their representatives shall apply the following general principles:

(a) All of the information necessary to a sound and supportable determination shall be obtained.

(b) The contractor shall be given an opportunity to develop and present whatever information is available to him which he may consider pertinent to the determination.

(c) Requests for additional information and the number of meetings held with the contractor or his representatives shall be held to a minimum.

(d) Financial and factual information is to be reviewed with the contractor and his agreement to its accuracy obtained wherever possible.

(e) The contractor is to be given every possible assistance and all necessary information with respect to the technical requirements of renegotiation, the Renegotiation Act, and the regulations in this chapter.

(f) The facts and conclusions with respect to the contractor's business are to be fully developed before a determination of excessive profits.

(g) Determinations, either proposed or final, are to be carefully considered and are to weigh all the facts and factors of the contractor's business as presented and established. [RR 402.3]

§ 1604.403 *Specific considerations.* [RR 403]

§ 1604.403–1 *Profits before taxes.* In renegotiation the amount of excessive profits is to be determined before provision for Federal taxes on income. Profit margins on war contracts should not be increased or maintained at a high level in order to offset higher taxes. To permit such a practice would nullify the intent of Congress as expressed in the Revenue Act. [RR 403.1]

§ 1604.403–2 *Separation of fixed-price and other special fee contracts.* Cost-plus-fixed-fee and other special fee contracts of a contractor are to be treated separately from fixed-price contracts. It is necessary to set forth separately the amount of renegotiable business done on cost-plus-fixed-fee or other special fee contracts. (See § 1604.407.) [RR 403.2]

§ 1604.403–3 *Comparisons.* In evaluating a contractor's performance, comparisons should be made with the prices, costs and profits of other contractors engaged in the production of the same or similar products or using the same or similar processes. [RR 403.3]

§ 1604.403–4 *Factors considered.* The factors required to be given consideration are stated in §§ 1604.408 to 1604.416. [RR 403.4]

§ 1604.403–5 *Significance of settlements, or profits or losses of other years.* (a) Notwithstanding the existence of a renegotiation settlement for a previous fiscal year, all the facts applicable to a contractor's business for the year being renegotiated are to be examined and considered. The previous basis of determination is not a controlling precedent and the renegotiation of a succeeding fiscal year shall be predicated solely on the facts and circumstances of that period.

(b) Loss of 1942 exempt volume of sales should not be compensated for by an increase in the profit margin on renegotiable sales.

(c) In the case of renegotiation conducted on a fiscal year basis, the contractor's profits or losses on renegotiable sales in a year prior or subsequent to the year subject to renegotiation shall not be used as an off-set or adjustment in the determination of excessive profits for the year which is the subject of renegotiation. (See § 1603.385–3.) [RR 403.5]

§ 1604.403–6 *Reserves against possible renegotiation refunds.* It is recognized that sound accounting principles may make it desirable for contractors to establish reserves against possible renegotiation refunds, but that the amount of reserves established in individual situations will vary widely depending upon the policy of the particular contractor concerned. Neither the existence nor the amount of such reserves is to be considered directly or indirectly in connection with the determination of excessive profits to be eliminated in renegotiation. The renegotiating agencies will recognize that conservative practice may result in setting up such reserves in excess of the anticipated liability and will not directly or indirectly penalize a contractor for such action. [RR 403.6]

§ 1604.404 *Computing margins of profit.* In computing the margin of profit a contractor receives on his renegotiable business or sales after making a refund, the amount of the refund is always deducted from the renegotiable business or sales as well as from the profit thereon. [RR 404]

§ 1604.405 *Overextended contractors.* It is not the function of renegotiation to provide contractors with capital funds from excessive profits created by the prices of war goods. The contractor's right to a reasonable profit and his need for working capital should be distinguished. A contractor should not be allowed to retain excessive profits on war contracts because he lacks adequate working capital in relation to a greatly increased volume of business. Other measures may be availed of to provide adequate financing. In certain cases the payment of the refund may be deferred but only for a reasonable period and under circumstances which justify such deferment. This policy is explained in § 1604.422. [RR 405]

§ 1604.406 *Minimum refund.* No refund of excessive profits should, in the absence of unusual circumstances, be required in an amount less than $10,000 before credit for the adjustment for state income taxes (see § 1603.389). The provisions of this section shall not apply, however, to subcontracts under subsection (a) (5) (B) of the 1943 act or to cases where the provisions of § 1603.348–3 operate to limit the amount of the refund. [RR 406]

§ 1604.407 *Cost-plus-fixed-fee contracts.* [RR 407]

§ 1604.407–1 *Policy.* Cost-plus-fixed-fee contracts are to be considered separately from fixed-price contracts. Sections 1604.407–2, 1604.407–3 and 1604.407–4 refer to supply contracts. [RR 407.1]

§ 1604.407–2 *Procedure.* In renegotiating cost-plus-fixed-fee contracts, the contractor should set forth the actual and prospective costs as well as the fees, stated separately, for each individual contract. The following information should be obtained:

(a) Comparison of the actual and prospective costs of each contract should be made with the estimated cost upon which the fee was based.

(b) The dates, amounts and fees of each contract should be assembled in chronological order. Note whether the fixed fee decreased as the volume of the same product to be produced on successive contracts increased.

(c) The proportion of the sales, costs and profits attributable to the fiscal year under renegotiation should be set forth.

(d) The factors referred to in § 1604.408 and following should be considered. [RR 407.2]

§ 1604.407–3 *Treatment of disallowed costs and adjustment of fees.* (a) Disallowances of costs under cost-plus-fixed-fee contracts made in accordance with the terms of the contracts will, except as noted below, be deducted from the fee. If, however, any part of the amounts so disallowed are determinable business expenses which would otherwise necessarily have been incurred for the continued operation of the business as an enterprise and, if such amounts are deductions of the character permitted under the applicable provision of the Internal Revenue Code and the contractor has fixed-price business, the amount of such disallowances may be allocated to fixed-price renegotiable and non-renegotiable business in proper proportions. Reference is made to § 1605.506–6 and clause 7 of the form in § 1607.741–2, relating to waiver of claims under a cost-plus-fixed-fee contract when the amount of the item disallowed under such contract is allowed as a cost against renegotiable business.

(b) The resultant net fee in terms of percent of costs will be related to the percent fee provided for under the contract or contracts.

(c) Actual product costs will be related to the prices specified in the contract or contracts on which the fee is based.

(d) The resultant dollar fee will be related to the work done under the contract or contracts, the performance results, and the volume of business resulting from the contract or contracts.

(e) The elements stated in paragraphs (a), (b), (c), and (d) above should be reviewed, when appropriate, with the procurement officers responsible for the placing and supervision of the cost-plus-fixed-fee contracts for the purpose of de-

termining whether or not the fee result is consistent with that intended when the contract or contracts were entered into. [RR 407.3]

§ 1604.407–4 *Profit margins.* (a) The margin of profit on cost-plus-fixed-fee contracts should be less than that on fixed-price contracts for the same volume of the same product under similar circumstances.

(b) If there has been a reduction of costs below the estimated costs on which the fee was based and it is clearly demonstrated that such reduction of costs is attributable to the contractor's own efforts, the fee should not be reduced merely because of this reduction in costs. The fees received under a cost-plus-fixed-fee contract should have a reasonable relationship to the services performed by the contractor. [RR 407.4]

§ 1604.408 *Uncompleted portions of terminated contracts.* [RR 408]

§ 1604.408–1 *Separate consideration.* Where a segregation of the items allocable to the uncompleted portions of terminated contracts and subcontracts is made in accordance with the principles set forth in §§ 1603.308–3 and 1603.381–5 (b) of this chapter, separate consideration will be given to such items, in the light of the applicable statutory factors in determining excessive profits. The evaluation so made of the contractor's performance with respect to the uncompleted portions of terminated contracts and subcontracts will be taken into consideration with the evaluation of the contractor's performance of the completed portions of such contracts and subcontracts and other contracts and subcontracts in determining the excessive profits, if any, of the contractor for the period involved in the renegotiation. [RR 408.1]

§ 1604.408–2 *Evaluation of performance with respect to uncompleted portions of terminated contracts and subcontracts.* The evaluation of the contractor's performance with respect to the uncompleted portions of terminated contracts and subcontracts will be measured by the nature and extent of such performance. The more nearly the nature and extent of such performance approximate the nature and extent of the contractor's performance of completed contracts and subcontracts of the same type, the more nearly the evaluation of such performance will approach that given to the contractor's performance of completed contracts and subcontracts of the same type. On the other hand, if, for example, the contractor's performance under the uncompleted portions of terminated contracts and subcontracts has consisted largely of the acquisition of inventory which he has processed only slightly or not at all, then the value placed upon such performance must be expected to be substantially less than the value of the contractor's performance in processing such inventory into finished articles delivered under completed contracts and subcontracts. Essentially the problem is no different from that involved in evaluating the contractor's performance under contracts or subcontracts the performance of which has been affected by cutbacks, changed requirements, etc., resulting in inventory losses or write-downs allocable to renegotiable business but with respect to which the contractor had no termination claim or other right to reimbursement. [RR 408.2]

§ 1604.408–3 *Effect of waivers of termination claims.* The evaluation of the contractor's performance with respect to the uncompleted portions of terminated contracts and subcontracts is not affected by whether he has or has not waived all or any part of his right to compensation under termination claims. Appropriate effect will be given to the evaluation of such performance in determining the excessive profits, if any, which are included in the contractor's aggregate receipts or accruals subject to renegotiation, whether or not such receipts or accruals include any amounts received or accrued under termination claims (see § 1603.308). [RR 408.3]

§ 1604.409 *General policy.* Reasonable profits in every case should be determined with reference to the particular factors present without limitation or restriction by any fixed formula with respect to rate of profit, or otherwise. Renegotiation should not result in a margin of profit based on the principle of a percentage of cost as profit. Contractors who sell at lower prices and produce at lower costs through good management, improved methods of production, close control of expenditures and careful purchasing should receive a relatively more favorable determination than those who do not. Mere claims of the contractor, in the above terms, for favorable consideration cannot be recognized. They must be supported by established facts, analyses and appropriate comparisons which clearly demonstrate their validity. [RR 409]

§ 1604.410 *Efficiency of contractor.* [RR 410]

§ 1604.410–1 *Statutory provision.* Subsection (a) (4) (A) of the Renegotiation Act of 1943 provides that in determining excessive profits there shall be taken into consideration the following factor:

(i) efficiency of contractor, with particular regard to attainment of quantity and quality production, reduction of costs and economy in the use of materials, facilities, and manpower.

[RR 410.1]

§ 1604.410–2 *Comment.* Consideration is to be given to the contractor's record for efficiency or lack of efficiency in operations with particular attention to the following:

(a) The quantity of production; for example, in relation to available physical facilities; the meeting of production schedules; the expansion of facilities; the maximum use of available production facilities.

(b) The quality of production; for example, the record of maintenance of standards of quality; the rejection record; reported mechanical or other difficulties in the use or installation of the product.

(c) The reduction of costs; for example, the decrease in costs per unit of production or per unit of sales as between fiscal years and as compared with other contractors producing the same or similar products where the operations are reasonably comparable; the decrease in administrative, selling or other general and controllable expenses; the decrease in prices paid vendors on purchased materials and subcontracted items or units. (See § 1604.411–2 (a)–(c).)

(d) The economy in the use of materials, facilities and manpower; for example, the decrease in quantity of materials used in relation to production and the number of employees in relation to production; the substitution of non-critical materials for critical materials; the reduction of waste. [RR 410.2]

§ 1604.411 *Reasonableness of costs and profits.* [RR 411]

§ 1604.411–1 *Statutory provision.* Subsection (a) (4) (A) of the Renegotiation Act of 1943 provides that in determining excessive profits there shall be taken into consideration the following factor:

(ii) reasonableness of costs and profits, with particular regard to volume of production, normal pre-war earnings, and comparison of war and peacetime products.

[RR 411.1]

§ 1604.411–2 *Comment.* (a) Consideration is to be given to the reasonableness or the excessiveness of costs and profits of the contractor. Comparisons should be made with the contractor's own costs and profits in previous years and with current costs and profits of other contractors, if the information is available. In comparisons, uncontrollable variations in labor, material or other costs should be taken into account. Particular attention should be given to relative changes in controllable costs such as selling, advertising, and general administrative expenses. Low costs with relation to other contractors and lowered costs with relation to the prior fiscal year, where clearly established and shown to be the result of efficiency in management, are especially significant and should receive favorable consideration.

(b) Consideration should be given to the corresponding profits in pre-war base years of the contractor and for the industry, especially in cases where the war products are substantially like pre-war products. In the absence of exceptional circumstances, the years 1936–39 will be used as a base period. In making comparisons with the base period, consideration should be given to any fundamental changes in the contractor's business, including the difference in character between war and peacetime products. The contractor's peacetime profits will be of greater significance where there is little change in the product or manufacturing process since the base years. The rate of profit made on peacetime business is not of itself a basis for profits to be made on war contracts. It should not be assumed that under war conditions a contractor is entitled to as great a margin

of profit as that obtained under competitive conditions in normal times.

(c) Consideration is to be given to the effect of volume on costs and profits. Increased volume usually serves to reduce average unit costs and increase profits accordingly. Where the volume has been created by Government purchasing, the Government should receive the principal benefit from the decreased costs and increased profits resulting therefrom. In general, the margin of profit on expanded war sales should be reduced in reasonable relationship to the expanded volume.

(d) Where a contractor is engaged in more than one class or type of business, the varying characteristics of the several classes of business should be taken into consideration. [RR 411.2]

§ 1604.412 *Capital employed.* [RR 412]

§ 1604.412–1 *Statutory provision.* Subsection (a) (4) (A) of the Renegotiation Act of 1943 provides that in determining excessive profits there shall be taken into consideration the following factor:

(iii) amount and source of public and private capital employed and net worth.

[RR 412.1]

§ 1604.412–2 *Comment.* Consideration is to be given to the amount and source of capital employed. This should include establishing and considering the proportion of plant or equipment or materials supplied by Government agencies or other contractors; the amount of production from plant and equipment furnished by the Government or others; the amount and proportion of investment covered by certificates of necessity; the amount of private capital at the beginning of the year; the extent and source of additional investment during the year in fixed assets; and loans, advances or Government guarantees. The relationship of the profit before taxes realized before and after renegotiation from the use of capital employed in renegotiable business to the value thereof at the beginning of the year should be used as a check to determine the return being realized on such investment. A contractor using his own capital is generally entitled to more favorable consideration than a contractor largely dependent upon Government financing or Government furnished facilities. Where a large part of the capital or facilities is supplied by the Government, the contractor's contribution tends to become one of the management only and the profit margin should be considered accordingly. [RR 412.2]

§ 1604.413 *Extent of risk assumed.* [RR 413]

§ 1604.413–1 *Statutory provision.* Subsection (a) (4) (A) of the Renegotiation Act of 1943 provides that in determining excessive profits there shall be taken into consideration the following factor:

(iv) extent of risk assumed, including the risk incident to reasonable pricing policies.

[RR 413.1]

§ 1604.413–2 *Comment.* (a) Consideration is to be given to the extent of risk assumed by the contractor; for example, possible increase in the cost of materials and wages; delays from inability to obtain materials; "cutbacks" in quantities; guarantees of quality and performance of the product; and such other risks as may be clearly determined.

(b) Particular consideration should be given to the risks assumed incident to reasonable pricing policies. The pricing policy of the contractor is more clearly indicated by the reasonableness of his billing prices and the reasonableness of the profit margin included in billing prices than by his final profit position. Voluntary refunds establishing a lower profit margin for the fiscal year are significant only when having the effect of consistently adjusting prices and profits throughout the period. The contractor whose pricing policy results in comparatively reasonable original profit margins on renegotiable business from original billing prices should receive more favorable consideration than a contractor whose pricing policy results in substantially excessive profits. The contractor who maintains low cost and only a reasonable margin of profit is subjected to the risks normally incident to the performance of a fixed-price contract secured under competitive conditions, while the contractor who overprices usually has taken few, if any, of such risks. In the latter case, the profit margin of the contractor should be adjusted in the direction of the fee that might have been allowed under a cost-plus-a-fixed-fee contract for the production of similar articles. Since many contractors have now had sufficient experience in production of contracted materials to eliminate or reduce the risks that may have justified liberal prices earlier, renegotiation agencies are to emphasize pricing policy by giving less favorable consideration to contractors who have not followed a reasonably close pricing policy. (See paragraph (e) of this section.)

(c) The record of the contractor, during the fiscal year being renegotiated, in reducing prices to reflect reductions in costs and to avoid the accumulation of excessive profits should be taken into account. The record in fulfilling or not fulfilling, in the year under consideration, price reduction commitments in a renegotiation agreement made in the previous year should be given substantial weight.

(d) Price comparisons should be made with other contractors making the same or essentially similar products.

(e) While prices which are actually lower than those of competitors are a favorable fact, it should be recognized that a low profit margin may be the result of comparatively low prices being coupled with comparatively high costs in which event neither the low prices nor the low profit margin should receive full consideration as favorable facts.

(f) Where the entry of a contractor into war business involved physical and other adjustments which will create substantial problems in a reconversion to pre-war business such as possible loss on capital investments made for war production purposes, loss or saturation of markets or other similar problems, the increased risk incident to such contractor's entry into war business as compared with other contractors who do not have similar risks is to be given consideration. [RR 413.2]

§ 1604.414 *Contribution to the war effort.* [RR 414]

§ 1604.414–1 *Statutory provision.* Subsection (a) (4) (A) of the Renegotiation Act of 1943 provides that in determining excessive profits there shall be taken into consideration the following factor:

(v) nature and extent of contribution to the war effort, including inventive and development contribution and cooperation with the Government and other contractors in supplying technical assistance.

[RR 414.1]

§ 1604.414–2 *Comment.* Consideration is to be given to the nature and extent of the contractor's contribution to the war effort. Favorable consideration for unusual contributions should begin at a high level of performance. Experimental and developmental work of high value to the war effort, and new inventions, techniques and processes of unusual merit are examples of special contributions. The extent to which a contractor cooperates with the Government and with other contractors in developing and supplying technical assistance to alternative or competitive sources of supply is a fact which should be given favorable consideration and the effect of such sharing of knowledge on the contractor's future peacetime business should also be taken into account. [RR 414.2]

§ 1604.415 *Character of business.* [RR 415]

§ 1604.415–1 *Statutory provision.* Subsection (a) (4) (A) of the Renegotiation Act of 1943 provides that in determining excessive profits there shall be taken into consideration the following factor:

(vi) character of business, including complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over.

[RR 415.1]

§ 1604.415–2 *Comment.* (a) Consideration is to be given to the character of the business of the contractor. The manufacturing contribution will vary with the nature of the product and the degree of skill and precision required in the work performed by the contractor. A contractor who performs a large proportion of the work under his contract directly contributes a greater part of the ultimate value of his product and generally has a lower turnover than companies acting primarily in an assembly capacity. The work done by a contractor who subcontracts a substantial portion of the manufacturing process differs from the work done by a contractor who makes the end product through all or most of its production stages. The ratio of labor and burden (overhead) to materials included in costs is usually significant. The relative complexity of the manufacturing technique and the relative integration of the manufacturing

process are the basic considerations in evaluating this factor.

(b) Maximum war production and the policy of Congress require that subcontracting be used to the maximum extent practicable. A contractor who, through subcontracting, materially increased the volume of war production in addition to making full use of his own plant and facilities, has shown ingenuity and resourcefulness in making use of the facilities of small plants, has assisted with engineering and production advice and has devoted time and managerial ability to such subcontractors should be considered as having made a greater contribution than one who has merely subcontracted certain parts of his production requirements. The contribution made by a contractor with respect to organizing the volume of his business produced by subcontractors varies substantially and must be evaluated in each instance.

(c) Rate of turnover will indicate the use of plant, materials and net worth. Low rate of turnover may indicate more complete integration in production or be related to the type of product and nature of the manufacturing process. High rate of turnover may indicate relatively smaller manufacturing contribution or by comparison with other manufacturers of similar products a relatively greater efficiency. [RR 415.2]

§ 1604.416 *Additional factors.* [RR 416]

§ 1604.416–1 *Statutory provision.* Subsection (a) (4) (A) of the Renegotiation Act of 1943 provides that in determining excessive profits there shall be taken into consideration the following factor:

(vii) such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

[RR 416.1]

§ 1604.416–2 *Factors provided by regulations.* No additional factors have been adopted by the War Contracts Board as, in its opinion, the statutory factors are broad enough to provide a basis for consideration of any element of a contractor's business necessary to be considered in renegotiation. [RR 416.2]

SUBPART B—RECOVERY OF EXCESSIVE PROFITS ALREADY REALIZED

§ 1604.420 *Scope of subpart.* This subpart deals with the repayment of excessive profits already realized. Subpart C deals with the elimination of excessive profits through voluntary agreement to reduce prices on deliveries to be made in the future. Subpart D deals with the allowance of the tax credit to which the contractor is entitled under section 3806 of the Internal Revenue Code. [RR 420]

§ 1604.421 *Statutory provision.* Subsection (c) (2) of the 1943 act provides:

Upon the making of an agreement, or the entry of an order, under paragraph (1) by the Board, or the entry of an order under subsection (e) by The Tax Court of the United States, determining excessive profits, the Board shall forthwith authorize and direct the Secretaries or any of them to eliminate such excessive profits (A) by reductions in the amounts otherwise payable to the contractor under contracts with the departments, or by other revision of their terms; or (B) by withholding from amounts otherwise due to the contractor any amount of such excessive profits or (C) by directing a contractor to withhold for the account of the United States, from amounts otherwise due to a subcontractor, any amount of such excessive profits of such subcontractor; or (D) by recovery from the contractor, through repayment, credit, or suit any amount of such excessive profits actually paid to him; or (E) by any combination of these methods, as is deemed desirable. Actions on behalf of the United States may be brought in the appropriate courts of the United States to recover from the contractor any amount of such excessive profits actually paid to him and not withheld or eliminated by some other method under this subsection. The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon. Each contractor and subcontractor is hereby indemnified by the United States against all claims by any subcontractor on account of amounts withheld from such subcontractor pursuant to this paragraph. All money recovered in respect of amounts paid to the contractor from appropriations from the Treasury by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts. Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury. In eliminating excessive profits the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code.

For the purposes of this paragraph the term "contractor" includes a subcontractor.

[RR 421]

§ 1604.422 *Recovery by voluntary repayment.* [RR 422]

§ 1604.422–1 *In general.* In renegotiation with respect to a completed fiscal period, the elimination of excessive profits will ordinarily be effected pursuant to an agreement providing for a refund. This refund may be made by the contractor in a single payment or in installments as the agreement may provide (see §§ 1603.323 and 1605.502–5). [RR 422.1]

§ 1604.422–2 *Time of repayment; general rule.* (a) Generally, when excessive profits are eliminated by installment payments, the final installment must be paid not later than the end of the fiscal year following that to which the renegotiation relates, or within 30 days after the execution and delivery of the agreement, whichever is later.

(b) If, in the opinion of the Department conducting the renegotiation, the application of the policy stated in §1604.422–2 (a) will result in undue hardship to a contractor, then the renegotiation agreement may provide for further extensions of the time of payment for such period or periods, not extending beyond two years after the close of the fiscal year to which renegotiation relates, as may be approved by such Department.

(c) Installments must be arranged so that there is no contravention of the principle stated in § 1604.422–3 with respect to income tax payments. [RR 422.2]

§ 1604.422–3 *Relation to income tax payments.* In any case where the excessive profits have been or may be excluded from income for Federal income and excess profits tax purposes for the year to which renegotiation relates, the installments in which the renegotiation refund is to be paid must be so arranged that the total cash payments required on or before each payment date for Federal income and excess profits taxes upon income for such year are at least equal to the Federal income and excess profits taxes the contractor would have had to pay by each such date upon the excessive profits eliminated. [RR 422.3]

§ 1604.422–4 *Interest.* (a) No renegotiation agreement when originally made shall require the payment of interest on installments of the refund which are not in default thereunder and which are provided to be payable within the time prescribed in § 1604.422–2.

(b) In cases of default, interest accrues and is payable upon each payment due under an agreement from and after the due date thereof, whether or not the agreement contains a contract provision for the payment of interest. The rate shall be that provided by law in the District of Columbia as the rate which is applicable in the absence of express contract as to the rate of interest. (See §§ 1605.502–5 (h), and 1608.807.) [RR 422.4]

§ 1604.422–5 *Repayment by credit memoranda.* The elimination of excessive profits may, but only if the renegotiation agreement so provides, be effected by reductions in the amounts otherwise payable to the contractor under contracts with the Departments or by other revision of their terms. This may be accomplished in whole or in part by the issuance by the contractor of credit memoranda to a Department or Departments applicable against specified existing prime contracts in a sum not in excess of the amounts then unpaid thereon. [RR 422.5]

§ 1604.422–6 *Tax anticipation notes not acceptable.* Tax anticipation notes cannot be accepted in discharge of an obligation to eliminate excessive profits. However, the Treasury Department has informed all Federal Reserve Banks that they are authorized to redeem currently Series B or Series C tax notes if the proceeds of the notes are to be used in payment of sums due as a result of renegotiation. [RR 422.6]

§ 1604.422–7 *Authority to enforce payment.* The authority to enforce payment is dealt with in §§ 1604.421, 1606.626–1 and 1608.821–1. (See also §§ 1604.423 and 1605.502–5 (d).) [RR 422.7]

§ 1604.423 *Withholding as a method of recovery.* (a) In a proper case, excessive profits may be eliminated by the withholding of the amount of excessive profits from amounts otherwise due to a contractor or by directing a contractor

to withhold for the account of the United States amounts otherwise due to a subcontractor.

(b) Withholding on subcontracts will be effected by a contractor or subcontractor upon a direction issued by a Secretary of a Department or pursuant to his authority. The contractor should make payment to his subcontractor in accordance with the terms of the subcontract until otherwise so directed. The 1943 act indemnifies any contractor or subcontractor against all claims under any subcontract for an amount withheld pursuant to such a direction. Any amount so withheld by a contractor or subcontractor shall be held by him for the account of the United States and shall be paid over to a Department upon a direction issued by or pursuant to the authority of a Secretary of a Department.

(c) Action to withhold under contracts and subcontracts may be taken upon default in the elimination of excessive profits determined by agreement, as well as in cases of determinations of excessive profits made by unilateral order.

(d) A form which may be used to direct a contractor to withhold and a form which may be used to direct a contractor to pay over amounts withheld are found in §§ 1607.748–1 and 1607.748–2. [RR 423]

§ 1604.424 *Repayment of excessive profits determined by order.* The elimination of excessive profits determined by order is dealt with in § 1606.626. [RR 424]

SUBPART C—PRICE REDUCTIONS FOR FUTURE DELIVERIES

§ 1604.430 *Scope of subpart.* This subpart deals with future repricing and its relationship to renegotiation. [RR 430]

§ 1604.431 *Statutory references.* (a) The Renegotiation Act of 1943 gives the War Contracts Price Adjustment Board no authority to compel price reductions for future deliveries, section 403 (c) (1) of the 1943 act conferring the power to renegotiate only with respect to "amounts received or accrued." This section in the 1942 act dealt with "profits realized or likely to be realized."

(b) The 1943 act does contain, however, permissive language with respect to forward pricing, section 403 (c) (1) providing that any renegotiation agreement may, "with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued."

(c) The authority to compel repricing of war contracts is now contained in Title VIII, section 801 of the Revenue Act of 1943. Thereunder, when the Secretary of a Department deems prices unreasonable or unfair, whether under existing agreements or with respect to prospective procurement, he may by order fix the price to be paid and other terms. Any person aggrieved may, within six months after the date of the order, sue in an appropriate court for the difference between the price fixed by the order and what he claims to be fair and just compensation. Should any person wilfully refuse or fail to furnish any articles or services at the price so fixed, the President has power to take over and operate any plant of such person under section 9 of the Selective Training and Service Act of 1940, as amended. (For text of the repricing statute see § 1608.804.) [RR 431]

§ 1604.432 *Necessity for future pricing in renegotiation.* (a) Compulsory repricing of contracts with respect to future deliveries will be separately administered by the Secretaries of the several Departments, and is not by statute an obligatory part of renegotiation.

(b) In every case where there has been a determination of excessive profits and it appears excessive profits may be realized in the future from current prices, an attempt should be made to include in the renegotiation agreement a provision for reduction of prices on future deliveries. If the contractor is unwilling to adjust future prices, his failure so to do will be taken into consideration in the next renegotiation. In such case, a report shall be made to the procurement officials having authority to reprice under Title VIII. [RR 432]

§ 1604.433 *General policy on price reductions for future deliveries.* (a) The reduction of excessive prices for future deliveries is especially vital to the cost of the war production program. A contractor maintaining a high margin of profit, but refunding part of these profits at the time of renegotiation will not have the same need to control or curtail costs as a contractor who is operating with a reasonable current margin of profit.

(b) The contractor who maintains an excessive profit margin on current sales has eliminated risks to almost the same extent as a cost-plus-fixed-fee contractor. On subsequent over-all renegotiation such a contractor will receive less favorable consideration than a contractor who has operated throughout the year on prices which include only a reasonable profit. (See § 1604.411.) [RR 433]

§ 1604.434 *Determination of amounts of price reductions.* In general an attempt should be made to reduce the prices for future deliveries sufficiently to avoid the future realization by a contractor of excessive profits under his contracts and subcontracts. The actual reductions indicated as necessary should be determined from the financial and other information obtained on renegotiation for the preceding period and from available current cost and price data. [RR 434]

§ 1604.435 *Reductions not final.* The provision for reductions should clearly state that any reduced prices or price reductions for the succeeding period, provided in the agreement, are not a final determination under the act and do not operate as a clearance for those prices or for the succeeding period. [RR 435]

§ 1604.436 *Performance of agreement to reduce prices.* The contractor's record in fulfillment of his agreement to reduce prices made in renegotiation for a previous year will be given substantial weight in the renegotiation determination of the current year. [RR 436]

SUBPART D—RENEGOTIATION AND TAXES

§ 1604.440 *Scope of subpart.* This subpart deals with the effect of renegotiation upon a contractor's Federal income and excess profits taxes. With reference to adjustment for state taxes see § 1603.389. [RR 440]

§ 1604.441 *Statutory provisions.* [RR 441]

§ 1604.441–1 *Subsection (c) (2) of the 1943 act.* Subsection (c) (2) of the 1943 act provides in part as follows:

> In eliminating excessive profits the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code.

[RR 441.1]

§ 1604.441–2 *Section 3806 of the Internal Revenue Code.* Section 3806 of the Internal Revenue Code is set forth in § 1608.802. This section requires, as a general rule, that the amount of a contractor's Federal income and excess profits taxes, which have been assessed for a prior taxable year in respect of excessive profits realized in such year, be allowed as a credit against the total excessive profits to be eliminated. By reason of the amendments to section 3806 made by section 701 (c) of the Revenue Act of 1943, it also provides special rules covering the allowance of tax credits against excessive profits to be eliminated for taxable years beginning in 1942 in cases involving individuals who are subject to the Current Tax Payment Act of 1943. [RR 441.2]

§ 1604.442 *Renegotiation after filing of Federal tax returns.* [RR 442]

§ 1604.442–1 *Allowance of credit for Federal taxes.* (a) The allowance of a credit for Federal taxes is provided by section 3806 of the Internal Revenue Code for the purpose of relieving contractors from double payments of excessive profits to the Treasury, once in the form of taxes and again as excessive profits, and to avoid the necessity for tax refunds by the Treasury.

(b) Where excessive profits are determined for a taxable year for which complete Federal income and excess profits tax returns, as distinguished from tentative returns, have been filed, the difference between the amount of Federal income and excess profits taxes assessed in respect of the contractor's income for the period (including the excessive profits) and the amount of Federal income and excess profits taxes which would have been assessed if the excessive profits had been excluded from the returns, is allowed as a credit against the excessive profits determined.

(c) The amount of the credit is based upon the amount of taxes assessed prior to the credit computation. If the assessment based upon the return filed has not been revised by the Bureau of Internal Revenue then the credit is computed upon the basis of such assessment.

If such assessment has been revised, then the credit is computed upon the basis of the revised assessment.

(d) Adjustments of a contractor's returns to reflect the reduction of taxable gross and net income and the amounts of tax and post-war credit are made by the Bureau of Internal Revenue after tax credits have been allowed. Any subsequent changes in the contractor's net income or tax liabilities are based upon these adjusted figures. Amended returns are not to be filed. When the tax credit is computed and applied it will not be revised thereafter.

(e) The effect of this credit provision is to require precisely the same aggregate amount of payments to the Government (as taxes and excessive profits) where renegotiation occurs after the filing of Federal tax returns, as would have been required if the gross amount of the excessive profits had been repaid to the Government prior to the filing of the Federal tax returns and no Federal taxes had been assessed thereon. [RR 422.1]

§ 1604.442–2 *Computation of credit for Federal taxes.* (a) The Bureau of Internal Revenue computes the credit allowable under section 3806 of the Internal Revenue Code for Federal income and excess profits taxes assessed for a prior taxable year. The contractor should submit written requests for such determinations directly to the Internal Revenue Agent in Charge of the Division of the Bureau of Internal Revenue where the contractor filed its tax return for the fiscal year involved. Forms for requesting computation of the credit appear at §§ 1607.731, 1607.732, and 1607.733. The requests should not be sent to the Collector of Internal Revenue.

(b) Where the original returns have been filed so recently that they are not available to the office of the Internal Revenue Agent in Charge, he will compute the amount of the tax credit from the contractor's retained copies of the returns. It usually requires at least six months after filing, for a return to reach the office of the Internal Revenue Agent in Charge. In such cases, photostat or certified copies of the returns should accompany the request to the Internal Revenue Agent in Charge. In the case of corporations, copies of pages one and two of the corporation forms 1120 and 1121 will ordinarily suffice.

(c) A copy of the contractor's request to the Internal Revenue Agent in Charge should be mailed to the Department handling the renegotiation. [RR 442.2]

§ 1604.442–3 *Federal tax credit of individuals under Current Tax Payment Act.* (a) Under the Current Tax Payment Act of 1943, there is only one tax liability with respect to the income of individuals for 1942 and 1943, and this tax liability is determined on the basis of the return for 1943. Accordingly, the tax credit allowable to individuals in such cases will not be the decrease in the tax for the particular year which is renegotiated, but the decrease in the total tax for 1943 which results from the elmination of excessive profits realized in 1942 or in 1943.

(b) The amount of an individual's total tax for 1943 which is to be decreased by the elimination of excessive profits is either his tax liability for 1943, as shown on his return for 1943, or his total payments on account of his tax for 1942 and 1943, whichever amount is the larger.

(c) Where excessive profits determined for 1942 or 1943 were included by the contractor in the computation of his tax liability as shown on his 1943 return, the tax credit computation should be requested in accordance with the form appearing at § 1607.732.

(d) Where excessive profits determined for 1942 or 1943 were included by the individual in computing his estimated tax for 1943 but such excessive profits were omitted in computing his tax liability as shown on his return for 1943, the tax credit computation should be requested in accordance with the form appearing at § 1607.733.

(e) Where, before renegotiaion, the excessive profits were included in the tax computation as described in paragraph (c) or (d), the amount of the credit is the excess of (1) the amount of the tax which is to be decreased, described under paragraph (b), over (2) the tax as computed after the excessive profits have been eliminated from income.

(f) Under the Current Tax Payment Act, a 1942 taxable year of an individual is any taxable year which began in 1942. Such a 1942 taxable year may, therefore, be a fiscal year ended at any time in 1943 prior to December 31, 1943.

(g) In no case will a tax credit be computed by the Internal Revenue Agent in Charge, or allowed in renegotiation, prior to the filing of the return for 1943 [RR 442.3]

§ 1604.442–4 *Determination of Federal tax credit for partnerships.* (a) Since a partnership files only an information return and the Federal tax is imposed on the individual incomes of the partners, the tax credit to which a partnership is entitled under section 3806 for a prior taxable year is the aggregate amount of the separate credits to which the individual partners are entitled because their shares of the partnership's income are reduced by the elimination of the excessive partnership profit. A request for a credit computation should be made for each partner on the form set forth at §§ 1607.732 or 1607.733, whichever is appropriate under the circumstances.

(b) For example, if A and B are partners with 60% and 40% interests respectively, and the partnership has realized excessive profits of $1,000,000 for a prior taxable year, then the elimination of $1,000,000 excessive profits of the partnership will reduce A's taxable income for the year by $600,000 and B's by $400,000. Upon request for a determination of the credit under section 3806, the Internal Revenue Agent in Charge will determine the amount by which the elimination of these excessive profits would reduce A's and B's individual income tax for the year. The aggregate amount of such reductions in A's and B's individual Federal income tax will represent the credit to be allowed under section 3806 against the partnership's obligation to refund excessive profits of $1,000,000. [RR 442.4]

§ 1604.442–5 *Determination of Federal tax credit for sole proprietor, partnership and joint venture in community property States.* If a portion of the excessive profits received or accrued by a sole proprietor, partner, or joint venturer, was included in the Federal income tax return of his or her spouse by virtue of the community property laws of the state in which they are domiciled, the tax credit allowed under section 3806 will include the amount, as determined by the Internal Revenue Agent in Charge, by which the spouse's tax is decreased by the elimination of the excessive profits. In such cases, both the husband and the wife should submit to the Internal Revenue Agent in Charge a written request for a determination of tax credit (see §§ 1604.442–2, 1607.732 and 1607.733). [RR 442.5]

§ 1604.443 *Renegotiation prior to filing of Federal tax returns.* [RR 443]

§ 1604.443–1 *Exclusion of excessive profits from returns.* (a) When, as a result of renegotiation, the amount of excessive profits is determined for a period for which Federal income and excess profits tax returns have not been filed, such amount of excessive profits may be excluded from the contractor's returns for the period.

(b) The amount of excessive profits eliminated for a particular taxable year may not be deducted or excluded from taxable income for any other taxable year.

(c) The tax effect of renegotiation for periods for which Federal income and excess profits tax returns have not been filed is more fully set forth in IT 3577 and IT 3611 at §§ 1608.852–2 and 1608.852–3. [RR 443.1]

§ 1604.443–2 *Effect of tentative tax return.* When a contractor has filed a tentative return for the year involved and has been granted an extension of time for filing his completed return, the provisions of IT 3577 and IT 3611 as outlined above will apply if the renegotiation takes place before the filing of the complete return. [RR 443.2]

§ 1604.444 *Special allocations of excessive profits elimination required for Federal tax purposes.* (a) If the basis upon which the renegotiation has been conducted differs from the basis upon which the contractor has filed his Federal Tax returns, the excessive profits to be eliminated must, for purposes of a proper computation of the allowable tax credit under section 3806 of the Internal Revenue Code, be allocated to the contractor's taxable year or years for which such excessive profits were reported as income in such tax returns. This is especially significant in cases where the renegotiation has been conducted on a completed contract basis although the contractor has used the cash receipts and disbursements or the percentage of completion method of accounting for Federal Tax purposes in reporting his income from some or all of the contracts covered by the renegotiation. In such a case, the allocation will not be made by prorating the adjusted contract price after renegotiation

to the years involved on the basis of receipts or accruals under the contract reported for tax purposes for such years, respectively, but will be made by prorating the excessive profits to those taxable years for which the contract profits reported for tax purposes exceeded non-excessive profits on the contract, as measured by the over-all margin of profit allowed on the contract. After such allocation the ratio of retained renegotiable profits to adjusted sales for each year to which excessive profits are allocated should be the same. The contractor's tax returns for the year involved and such supplementary data as may be pertinent to an analysis of the contractor's taxable income for each such year will be used as the basis of such allocation.

(b) Where a renegotiation is conducted on a consolidated basis, excessive profits to be eliminated must be allocated between the entities so consolidated (see § 1603.311).

(c) The allocation of excessive profits is to be made by the agency conducting the renegotiation and not by the contractor. The contractor may, however, furnish or be required to furnish such supplementary information in explanation of the sources of taxable income as reported for any year as may be pertinent to such allocation.

(d) Special allocations of excessive profits to be eliminated under (a) and (b) above should appear in the renegotiation agreement or in the order determining excessive profits and also in any request to an Internal Revenue Agent in Charge for tax credit computations. [RR 444]

PART 1605—AGREEMENTS AND STATEMENTS

SUBPART A—AGREEMENTS AND CLEARANCES

SUBPART B—STATEMENTS TO CONTRACTORS

SUBPART A—AGREEMENTS AND CLEARANCES

§ 1605.501 *General.* [RR 501]

§ 1605.501–1 *Statutory authority.* (a) Subsection (c) (4) of the 1943 act provides as follows:

> For the purposes of this section the Board may make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this section. Such agreements may contain such terms and conditions as the Board deems advisable. Any such agreement shall be conclusive according to its terms; and except upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, (A) such agreement shall not for the purposes of this section be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States, and (B) such agreement and any determination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding.

(b) Subsection (c) (1) of the 1943 act provides, in part, as follows:

> Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued.

[RR 501.1]

§ 1605.501–2 *Uses of agreements and clearances.* The following types of instruments are used in connection with renegotiation:

(a) *Renegotiation agreements.* These are to be used when, upon conclusion of the renegotiation proceedings, a final agreement is reached between the contractor and the renegotiation officials of the Government that a certain amount of excessive profits is to be eliminated. A form of such agreement is set forth in § 1607.741–1.

(b) *Clearances.* These are to be used where, upon a review of the financial and other data submitted by the contractor, it is formally determined that there are no excessive profits for the fiscal year under review. (See § 1607.742.) [RR 501.2]

§ 1605.502 *Standard form of agreement.* [RR 502]

§ 1605.502–1 *In general.* When, as a result of renegotiation, an agreement has been reached with a contractor for the elimination of excessive profits, such agreement will ordinarily be evidenced by the execution of the standard form of renegotiation agreement, which is set forth in § 1607.741–1. The provisions of the standard form of agreement are discussed in the succeeding sections. [RR 502.1]

§ 1605.502–2 *Article 1: Profits to be eliminated.* The agreed dollar amount of excessive profits to be eliminated, after giving effect, in accordance with subsection (a) (4) (B) of the 1943 act, to any adjustment for taxes, other than Federal taxes, measured by income, will be set forth in Article 1. Ordinarily such amount will be the excessive profits determined to have been received or accrued during a particular fiscal year under all of the contractor's contracts and subcontracts subject to renegotiation. When the renegotiation covers only contracts and subcontracts completed during a fiscal year or has been conducted only with respect to certain contracts and subcontracts, the language used in Article 1 should be modified accordingly. When the amount of refund is limited by the application of the provisions of § 1603.348–3, an appropriate statement to that effect will be included in Article I of the Renegotiation Agreement (see suggested form of statement in footnote to Article 1, § 1607.741–1). [RR 502.2]

§ 1605.502–3 *Article 2: Warranty: Exhibit A: Exhibit B.* Renegotiation is, in large measure, conducted upon the basis of information and data submitted by the contractor, particularly financial data. Since such material is accepted in good faith by the Government as the basis for conducting the renegotiation, it is appropriate that the contractor warrant its correctness. Article 2 contains such a warranty, which extends to and includes the summarized data set forth in Exhibit A (see § 1605.503) which is to be annexed to the agreement. If the renegotiation includes subsidiaries of the contractor and has been conducted on a consolidated basis, a list of the subsidiaries will be set forth on an Exhibit B to be annexed to the agreement, the correctness of which the contractor will also warrant (see §1605.504). An appropriate modification will be made in Article 2 when Exhibit B is used. (See § 1607.741–2 (b).) [RR 502.3]

§ 1605.502–4 *Article 3: Tax credit under section 3806 of the Internal Revenue Code.* (a) In most instances the contractor will have been assessed Federal income or income and excess profits taxes on the profits to be eliminated. A credit equal to the amount of such taxes is required by the Renegotiation Act to be allowed against the refund to be made in accordance with section 3806 of the

Internal Revenue Code. The provisions of Article 3 cover the contractor's representation that the profits to be eliminated were included in income in his tax return for the fiscal period involved and his agreement to procure a computation by the Bureau of Internal Revenue of the amount by which his taxes for that fiscal period are decreased by reason of the elimination of such profits from income. The procedure for procuring such computation is set forth in § 1604.442.

(b) If the renegotiation is concluded before the contractor has filed his Federal income or income and excess profits tax returns for the fiscal period involved, the contractor will ordinarily exclude from income as reported in such returns the amount of profits to be eliminated. In such case no tax credit will be allowable and the agreement should, in lieu of the provisions of Article 3 of the standard form, contain the provisions set forth in § 1607.741–2 (c) (1).

(c) In some instances less than all of the profits to be eliminated may have been included in the income for the fiscal period upon which Federal income or income and excess profits taxes have been assessed. In such circumstance, a tax credit under section 3806 of the Internal Revenue Code will be allowable only as against the part of the profits to be eliminated upon which such Federal taxes have been assessed. A clause covering this type of situation is set out in § 1607.-741–2 (c) (2).

(d) If the renegotiation is concluded with a partnership, the form of tax credit clause should be appropriately modified. In § 1607.741–2 (c) (3) is a form of partnership tax credit clause which may be used when it is appropriate in view of the facts. Should less than all the partners sign the renegotiation agreement (see § 1602.502–12 (c) and (f)) such clause will have to be appropriately modified. [RR 502.4]

§ 1605.502–5 *Article 4: Terms of payment.* (a) The schedule of the payments to be made will be set forth in Article 4. A suggested form of such schedule is set forth in § 1607.714–2 (e). The Department which has conducted the renegotiation will also provide, in this article, for the place of payment. In the event that the profits agreed in Article 1 to be eliminated are derived in part from prime contracts with Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation and Rubber Reserve Company, or any of such corporations, and the total amounts received or accrued under such prime contracts exceed $50,000, the payment provision, in accordance with the footnote to Article 4 on the standard form, will require payment of the excessive profits under such prime contracts to the RFC Price Adjustment Board. In cases in which the total amounts received or accrued under prime contracts with any of the above named subsidiaries of the RFC do not exceed $50,000, it shall not be necessary to make a separate determination of the profits derived from such contracts and the entire refund shall be payable as though no contracts with the RFC subsidiaries were involved.

(b) For the purpose of determining the portion of the profits which are to be eliminated which were derived from such prime contracts, the Department conducting renegotiation will segregate the amounts received or accrued under such contracts from amounts received or accrued under other renegotiable contracts and subcontracts involved in the renegotiation of a particular contractor. It will also generally segregate the profits derived from such prime contracts. Where, however, it is indicated that the margin of profit attributable to contracts with the RFC subsidiaries is substantially the same as that attributable to other contracts and subcontracts involved in the renegotiation, a fair allocation of the profits to be eliminated may be effected by prorating the amount of the refund on the basis of the amount of renegotiable business attributable to contracts with the RFC subsidiaries and the amount of such business attributable to other contracts and subcontracts. Accordingly, the Department conducting renegotiation may determine the amount of the renegotiation refund to be paid to the RFC Price Adjustment Board on such basis where it is believed that the application of the same will result in a fair and reasonably accurate result.

(c) Responsibility for the collection of, and for the maintenance of records concerning, any amounts due the RFC Price Adjustment Board under renegotiation agreements, shall rest with the RFC Price Adjustment Board, and any such agreements providing for refunds to the RFC under the 1943 act shall be referred to the RFC Price Adjustment Board for the collection of that portion of the refund payable to that Board. The Department conducting the renegotiation will retain responsibility for the collection of only that portion of the refund which is payable into the Treasury of the United States. In such cases, an authenticated copy of the renegotiation agreement and tax credit computation letter shall be forwarded to the RFC Price Adjustment Board. The Assignments and Statistics Branch should be promptly notified of any default in the collection of any installment due under such agreements and the enforcement of the obligations under the agreement properly coordinated under the supervision of the War Contracts Price Adjustment Board.

(d) In the case of suit for the collection of any amounts due under any renegotiation agreements in which the RFC is entitled to a portion of the refund, under ordinary circumstances the Assignments and Statistics Branch should assign such case for collection to the Department then having the predominant interest in the balance of the refund.

(e) If a portion of the refund is to be made to the RFC Price Adjustment Board, any such tax credit should be apportioned ratably between the portion of the refund payable to the RFC Price Adjustment Board and the portion payable to the Treasurer of the United States.

(f) Specially detailed terms for elimination of excessive profits may be set forth on an Exhibit C and incorporated by reference in Article 4 (see § 1605.505). If no subsidiaries are involved and there is, therefore, no Exhibit B referring to such subsidiaries, this exhibit setting forth the terms of payment should, of course, be designated "Exhibit B," instead of "Exhibit C."

(g) Limitations upon the period of time beyond which the schedule of payments must not extend are set forth in § 1604.422.

(h) Provision is made in the standard form of renegotiation agreement for the payment of interest on defaulted installments. (See § 1607.741–1 (d) and § 1607.741–2 (e).) The rate specified in the agreement is "the rate provided by law in the District of Columbia as the rate which is applicable in the absence of express contract as to the rate of interest." (See § 1608.807.) [RR 502.5]

§ 1605.502–6 *Article 5: Article requiring elimination of additional excessive profits.* The provision set forth in § 1607.741–1 is designed to protect the interest of the Government if by reason of reduction of certain costs shown as paid or incurred, in the financial data submitted by the contractor, the profits of the contractor for the period covered by the renegotiation from contracts or subcontracts subject to the Renegotiation Act of 1943 are increased. This article should be omitted if the amount of excessive profits to be refunded is limited by the provisions of § 1603.348–3 and the renegotiation agreement contains the paragraph set forth in the footnote to Article 1 in the Standard Form of Agreement set forth in § 1607.741–1. [RR 502.6]

§ 1605.502–7 *Article 6: Covenant against contingent fees.* This article contains the provisions required by Executive Order 9001 to be included in certain types of Government contracts. [RR 502.7]

§ 1605.502–8 *Article 7: Officials not to benefit.* This article is also a standard provision in most Government contracts, required by Revised Statutes, section 3741, as amended (41 U. S. C. sec. 22). [RR 502.8]

§ 1605.502–9 *Article 8: Discharge of liability.* In consideration of performance by the contractor of the terms of the agreement he is granted a discharge of liability in accordance with subsection (c) (4) of the Renegotiation Act. When the renegotiation covers only contracts and subcontracts completed during the fiscal year or has been conducted only with respect to certain contracts or subcontracts, care should be taken that Article 8, when read in connection with Article 1 (§ 1605.502–2) discharges the liability of the contractor only with respect to the contracts and subcontracts actually renegotiated. [RR 502.9]

§ 1605.502–10 *Article 9: Renegotiation rebate.* This article specifically reserves to the contractor his rights under subsection (a) (4) (D) of the Renegotiation Act in the event that a recom-

putation of his amortization deduction under section 124 (d) of the Internal Revenue Code should entitle him to a rebate. [RR 502.10]

§ 1605.502–11 *Article 10: Execution of the agreement.* The persons executing the agreement on behalf of the contractor and on behalf of the Government state that they do so upon proper authority. [RR 502.11]

§ 1605.502–12 *Formalities of execution.* (a) If the contractor is a corporation, the agreement must be accompanied by a certified resolution of the Board of Directors of the contractor (or the equivalent committee or other body). The form of the resolution, the adoption of the resolution, and the execution of the certificate must all be in accordance with the formalities required by the particular state laws involved. The resolution itself should state:

(1) That the agreement is being entered into pursuant to the Renegotiation Act;

(2) The amount of profits to be eliminated—and the fiscal year for which they are to be eliminated;

(3) The title of the corporate officer who is being authorized to execute the agreement on behalf of the corporation; and

(4) The title of the corporate officer authorized to affix and attest the corporate seal thereon.

The certificate, certifying the adoption of the resolution should state:

(i) The name and capacity of the officer signing the certificate;

(ii) The body adopting the resolution (normally this will be the Board of Directors, but may, in a particular case, be an Executive Committee or similar body);

(iii) The date of the meeting;

(iv) The fact that a quorum of the Board (or other body) was present throughout the meeting;

(v) That the resolution was duly adopted;

(vi) If the particular agreement is specifically referred to in the resolution, that the agreement to which the certified resolution is attached is the same as that referred to in the resolution: and

(vii) That the resolution has not been modified or rescinded and that it is in full force and effect.

If the resolution is adopted by an Executive Committee or similar body (other than the Board of Directors) the certificate must also include satisfactory evidence of the body's authority to act.

(b) The form and method of execution of the renegotiation agreement in the case of a consolidated renegotiation is described in § 1605.502–13.

(c) If the contractor is a partnership, all general partners therein should execute the agreement.

(d) If the contractor is a joint venture, each participant should execute the agreement.

(e) If the authority of the person signing the agreement is based upon a written instrument or court order or provision of law (as where the agreement is executed on behalf of a corporation in dissolution, or an estate or trust, or where the authority derives from a power-of-attorney), the agreement should be accompanied or supported by proper evidence of such authority.

(f) The Department conducting the renegotiation has authority to depart from the requirements of this section in its discretion. [RR 502.12]

§ 1605.502–13 *Consolidated renegotiation; agreement, form and execution.* If a group consists of affiliated enterprises, other than parent and subsidiary corporations, the standard form of agreement should be rewritten to include as parties thereto all members of the group to which are allocated any amount of the excessive profits and it must be executed by each such member of the group. If the group consists of parent and subsidiary corporations, the renegotiating agency may require the standard form of agreement to be rewritten to include as parties thereto, in addition to the parent corporation, all subsidiaries to which are allocated any amounts of the excessive profits and each such subsidiary must execute the agreement. The renegotiating agency may, however, use the standard form of agreement executed only by the parent corporation. In such event, the following procedure will be followed: (a) The variation in Article 2 set forth in § 1607.741–2 (b) shall be included in the agreement; (b) Exhibit B to the agreement must contain a clause by which each subsidiary to which is allocated any portion of the excessive profits agrees to pay such portion; (c) Exhibit B must be duly executed by each such subsidiary and an appropriate resolution authorizing such execution must be furnished (see § 1605.502–12; and (d) Exhibit B will also provide that payment by the parent corporation will be applied ratably to satisfy the liability of each member of the group. A form of Exhibit B to be used where the foregoing clauses are required, is set forth in §1607.741–2 (b). [RR 502.13]

§ 1605.503 *Exhibit A.* There shall be attached to every renegotiation agreement providing for the elimination of excessive profits an exhibit designated "Exhibit A," which shall contain as a minimum, the financial data and information referred to in § 1607.741–3. In the discretion of the Department conducting the renegotiation, any additional financial data or information may be included in Exhibit A. [RR 503]

§ 1605.504 *Exhibit B.* When the contractor has subsidiaries, there shall be attached to the renegotiation agreement a list of such subsidiaries in detail. Such list shall be designated as "Exhibit B." Ordinarily, all of such subsidiaries will have been consolidated with the parent company for purposes of the renegotiation agreement, and if any has not been so consolidated, that fact should be specially noted on Exhibit B. The amount of excessive profits, if any, allocated to each subsidiary must be shown on such exhibit. A form of clause referring to Exhibit B for insertion in the renegotiation agreement and a form of Exhibit B are set out in § 1607.741–2 (b). (See also § 1607.741–4.) [RR 504]

§ 1605.505 *Exhibit C.* If the provisions for payment of the cash refund or for other method of elimination of excessive profits are such as cannot be readily set out in Article 4 of the standard form of agreement, such provisions may be set out in an additional exhibit to the agreement, designated "Exhibit C" which should be attached to the agreement and incorporated therein by a reference thereto in Article 4 of the agreement. [RR 505]

§ 1605.506 *Additional provisions: variations.* [RR 506]

§ 1605.506–1 *In general.* The basic provisions of the standard form of agreement set forth in § 1607.741–1 are to be used in all cases except as otherwise noted in §§ 1605.506 to 1605.506–7. Additional provisions may be added when required to fit particular situations. Section 1607.741–2 contains forms of clauses which, when appropriate, should be used to meet certain of these special situations. Variations in language are permissible where necessary, but unless otherwise noted in §§ 1605.506 to 1605.506–7 in no event may any such change be made, or any provision be added to the agreement, when the effect would be to alter or modify the substance or intent of the basic provisions. The conclusion of the official signing the agreement on behalf of the Government pursuant to duly delegated authority that the agreement meets the requirements of this section shall be evidenced by the fact of execution and shall be conclusive. (See § 1608.821–1.) [RR 506.1]

§ 1605.506–2 *Forward pricing clause.* The Renegotiation Act of 1943 specifically authorizes provision in the renegotiation agreement, by agreement with the contractor, for the elimination of excessive profits likely to be received or accrued in the future. When agreement cannot be reached upon specific price reductions, use may be made in the renegotiation contract of the article set forth at § 1607.741–2 (a). In this connection reference is made to § 1604.430 and following. If specific price reductions are agreed upon, the agreement should clearly identify the contracts affected by such price reductions in order that the Department administering the agreement can determine whether the contractor has complied therewith. [RR 506.2]

§ 1605.506–3 *Anti-discrimination clause.* (a) Executive Order No. 9346 dated May 27, 1943, requires "all contracts hereafter negotiated or renegotiated" to contain an article of the type set forth in § 1607.741–2 (d).

(b) Whenever a renegotiation agreement, executed under the act, expressly purports to modify the terms of specified existing prime contracts with any of the Departments with respect to future deliveries, and the contract or contracts to be modified do not contain an anti-discrimination clause, then the renegotiation agreement shall include the provision set forth in § 1607.741–2 (d). Except in such cases the requirements

stated in (a) above do not apply to renegotiation agreements.

(c) If the renegotiation agreement is to be followed by a supplemental agreement or agreements modifying the terms of existing contracts with respect to future deliveries, each such supplemental agreement will provide for the inclusion in the contracts so modified, of the anti-discrimination clause. [RR 506.3]

§ 1605.506–4 *Clause to be used in certain cases where renegotiation is conducted on completed contract basis.* Whenever renegotiation is conducted on a completed contract basis pursuant to the request of a contractor in the form therefor which is set forth in § 1607.723, clause (6) set forth in § 1607.741–2 must be included in the renegotiation agreement. In each such case, a copy of such form executed by the contractor requesting renegotiation on a completed contract basis (§ 1607.723) must be attached to the renegotiation agreement as an exhibit as provided in clause (6) set forth in § 1607.741–2. [RR 506.4]

§ 1605.506–5 *Clause covering conditional allowance of cost.* If pursuant to the procedure set forth in § 1603.381–4 (d), an item of cost is allowed conditionally pending final determination of its allowability as a deduction or exclusion under Chapters 1 and 2E of the Internal Revenue Code, an appropriate clause will be inserted in the renegotiation agreement. The form of the clause may vary, but essentially it will consist of an agreement by the contractor to repay, as additional excessive profits, the amount of the item allowed as a cost in renegotiation which is finally determined to be not allowable as a deduction or exclusion under Chapters 1 and 2E of the Internal Revenue Code. As pointed out in § 1603.381–4 (d), the clause must be approved by the Chairman of the Price Adjustment Board of the Department concerned before it can be used in the renegotiation agreement. [RR 506.5]

§ 1605.506–6 *Waiver of claims under cost-plus-fixed-fee contracts.* If an item of cost is allowed in renegotiation for an item for which a claim for reimbursement under a cost-plus-fixed-fee contract has been made and disallowed by the Government, the contractor should waive and release such claim under the cost-plus-fixed-fee contract involved to the extent that the amount of the claim is allowed as a cost against renegotiable business (see § 1604.407–3). There is set out in § 1607.741–2 (g) an appropriate form of clause relating to such claims. The form of clause may be varied to fit the particular case. [RR 506.6]

§ 1605.506–7 *Other special provisions.* Examples of additional special clauses are set out in the supplement to the standard form of agreement (§ 1607.741–2). It is recognized that these provisions are not exclusive and that many circumstances will be encountered requiring other clauses and provisions. The form and substance of such provisions will be within the discretion of the Department conducting the renegotiation, subject to the limitation indicated in § 1605.506–1. [RR 506.7]

§ 1605.507 *Prohibited provisions.* [RR 507]

§ 1605.507–1 *Reservations impairing finality of agreement.* No renegotiation agreement is acceptable if it or any authorizing resolution or letter of transmittal contains any reservation which might be interpreted as permitting the contractor to reopen the agreement if the Renegotiation Act is amended or declared unconstitutional, or interpretations of the act are changed, or new exemptions are established or for any similar reason. [RR 507.1]

§ 1605.507–2 *Provision for refund by the Government.* Other than recognition of the right to a renegotiation rebate in accordance with subsection (a) (4) (D) of the 1943 act by reason of a future recomputation of the amortization deduction pursuant to section 124 (d) of the Internal Revenue Code (see § 1605.502–10), no provision shall be made in any renegotiation agreement which would have the effect of requiring the Government under any circumstances to repay all or any part of any payment made to it thereunder. [RR 507.2]

§ 1605.507–3 *Periodic refunds of future excessive profits.* As part of the general policy of discouraging excessive prices and of encouraging price reductions, final agreements in renegotiation should not contain provisions for any periodic or other refunds by contractors of excessive profits realized after the date of such agreements. However, it is appropriate for such agreements to contain provisions for future price reductions or stated discounts from an agreed upon price. [RR 507.3]

§ 1605.508 *Clearances.* [RR 508]

§ 1605.508–1 *When given.* If, as a result of renegotiation, it is found that no excessive profits have been received by or accrued to the contractor during the fiscal year under consideration, the contractor should be given a clearance for such year. [RR 508.1]

§ 1605.508–2 *Use and form of clearance notice.* (a) The form of clearance notice set forth in § 1607.742 should be used in all cases unless the contractor requests a formal clearance agreement.

(b) If any subsidiaries of the contractor are to be included in the clearance notice, appropriate modification may be made in the form.

(c) Whenever renegotiation is conducted on a completed contract basis pursuant to the request of the contractor made in the form therefor which is set forth in § 1607.723, the clearance notice will not be used. In such cases where it is determined that no excessive profits have been received or accrued, a clearance agreement (§ 1605.508–3) will be used. [RR 508.2]

§ 1605.508–3 *Use and form of clearance agreement.* Upon request of the contractor, a clearance agreement executed by the contractor and the Government may be used in place of the clearance notice. Such agreement should follow the general structure of the standard form of renegotiation agreement (see § 1605.506 and § 1607.741–1) except that Articles 3, 4, 5 and 9 of the standard agreement should be omitted. The articles used should be renumbered consecutively. The first article should be substantially the same as that contained in the standard form, except that the finding and agreement should be that no profits should be refunded pursuant to the act. Whenever renegotiation is conducted upon a completed contract basis pursuant to the request of the contractor in the form therefor which is set forth in § 1607.723, the alternative clause (6) set forth in § 1607.741–2 will be included in the clearance agreement. [RR 508.3]

§ 1605.509 *Administration of determinations by agreement or order.* It is the practice of the War Contracts Price Adjustment Board to have the Department to which the contract was assigned for renegotiation also administer the resulting renegotiation agreement or unilateral determination. This practice results in such Department being responsible for the collection of any amounts due, the supervision of any forward pricing provisions in an agreement, and other matters involved in such administration. [RR 509]

§ 1605.510 *Agreements for periods involving different acts.* Should a contractor conclude renegotiation at the same time relating to a fiscal year ended on or prior to June 30, 1943, and a fiscal year ended subsequent to June 30, 1943, it will ordinarily be desirable to prepare separate agreements for each fiscal period. The first period is governed by the 1942 act and the second period is governed by the 1943 act. In the discretion of the Department conducting the renegotiation, one agreement may be used provided that in its form and execution the requirements of the Renegotiation Act of 1942 to the extent applicable and the requirements of the Renegotiation Act of 1943 to the extent applicable are observed. Such discretion may be exercised in the case of renegotiation on a contract basis of a long term contract or in such other cases as the Department conducting the renegotiation may deem suitable. [RR 510]

SUBPART B—STATEMENTS TO CONTRACTORS

§ 1605.520 *Scope of subpart.* This subpart describes, in general, the statement to be furnished the contractor pursuant to subsection (c) (1) of the 1943 act, the manner in which the contractor may request the statement and the time at which the statement is furnished. It also generally describes the statement furnished where statutory determination has not yet been made. The form of the statements, the material to be included and the instructions for their preparation are set forth in § 1607.752 and following of this chapter. [RR 520]

§ 1605.521 *Statutory provision.* Subsection (c) (1) of the Renegotiation Act provides, in part, as follows:

> Whenever the Board makes a determination with respect to the amount of excessive profits, whether such determination is made

by order or is embodied in an agreement with the contractor or subcontractor, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in The Tax Court of the United States as proof of the facts or conclusions stated therein.

[RR 521]

§ 1605.522 *Request for statement.* A request for the statutory statement shall be made in writing by the contractor and addressed to the agency conducting the renegotiation not later than thirty (30) days after receipt by the contractor of an executed copy of the agreement, if the determination of excessive profits is embodied in an agreement, or within thirty (30) days after receipt of a determination made by order. The request for a statement need not be a formal document. [RR 522]

§ 1605.523 *Contents of statement.* (a) The statement will contain:

(1) The determination of excessive profits.

(2) A summary of the facts upon which the determination is based.

(3) The reasons for the determination.

(b) The following data or material will not be included in the statement:

(1) Information, the furnishing of which would be contrary to regulations for military security.

(2) Information with respect to the operations of other contractors which is of confidential character or the disclosure of which would not be in the interest of the war effort. [RR 523]

§ 1605.524 *Statement prior to final determination.* [RR 524]

§ 1605.524–1 *Where statutory determination has not yet been made.* When all of the facts relating to the renegotiation have been assembled and considered and the contractor has been advised by the renegotiating agency as to the amount which, in the opinion of such agency, represents the excessive profits which should be eliminated, there shall be submitted to the contractor, upon the latter's request, a written summary of the facts and reasons upon which such opinion is based. Such statement shall be prepared and furnished only upon the request in writing of the contractor including a statement that he has submitted all the evidence which he believes to be relevant to the renegotiation. The purpose of such statement will be to assist the contractor in determining whether or not he will enter into an agreement providing for the elimination of such excessive profits. The contents of such statement shall be prepared in accordance with the instructions set forth in § 1607.752–2 with respect to the statutory statement, but in lieu of the paragraphs set forth as (1) and (2) in § 1607.752–2 it shall conform to the paragraphs (1) and (2) in § 1607.752–3. By agreement with the contractor, detailed information submitted by the contractor which is not necessary to the contractor's understanding of the opinion reached, may be omitted. [RR 524.1]

§ 1605.524–2 *Where determination is by order which may not be final.* Whenever the determination is made by the entry of an order, the statutory statement will be furnished to the contractor if requested within the time prescribed in § 1605.522. Such statement accompanying any determination by order which, pursuant to subsection (d) (5) of the Renegotiation Act, is subject to review by and approval of the War Contracts Board, will contain the following clause:

This statement is final only in the event that the determination to which it relates is final.

[RR 524.2]

PART 1606—IMPASSE PROCEDURE

SUBPART A—PROCEDURE UPON REFUSAL OF INFORMATION

SUBPART B—FAILURE TO AGREE

SUBPART C—PROCEEDINGS IN THE TAX COURT

SUBPART A—PROCEDURE UPON REFUSAL OF INFORMATION

§ 1606.601 *Scope of subpart.* In some cases the contractor may refuse to submit information required in the conduct of renegotiation. This subpart describes the authority to obtain information and the procedure to be followed in such cases. [RR 601]

§ 1606.602 *Authority to obtain data.* [RR 602]

§ 1606.602–1 *Renegotiation Act of 1943.* Subsection (c) (5) of the 1943 act provides as follows:

(5) (A) Every contractor and subcontractor who holds contracts or subcontracts, to which the provisions of this subsection are applicable, shall, in such form and detail as the Board may by regulations prescribe, file with the Board on or before the first day of the fourth month following the close of the fiscal year (or if such fiscal year has closed on the date of the enactment of the Revenue Act of 1943, on or before the first day of the fourth month following the month in which such date of enactment falls), a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this section. In addition to the statement required under the preceding sentence, every such contractor or subcontractor shall, at such time or times and in such form and detail as the Board may by regulations prescribe, furnish the Board any information, records, or data which is determined by the Board to be necessary to carry out this section. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of them under this subsection, or who knowingly furnishes any such statement, information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than two years, or both.

(B) For the purposes of this section the Board shall have the same powers with respect to any such contractor or subcontractor that any agency designated by the President to exercise the powers conferred by Title XIII of the Second War Powers Act, 1942, has with respect to any contractor to whom such title is applicable. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this section.

The similar provisions of subsection (e) of the 1942 act relating to false information were invoked in *United States* v. *Joseph Decker and Gustav Kann*, 51 Fed. Supp. 20 (D. C., Dist. of Md., July 24, 1943). The court ruled that the defendant, an officer of the corporate contractor, violated the provisions of subsection (e) of the 1942 act by referring the representative of the Navy Department, who had made written demand for statements of actual costs of production, to the contractor's books which the defendant knew contained false and misleading information. [RR 602.1]

§ 1606.602–2 *Title XIII of the Second War Powers Act, 1942.* (a) This statute gives the Government the right to inspect and audit the books of any contractor holding a contract, subcontract, or order placed in furtherance of the war effort. (See § 1608.803.) The inspection and audit may be made by the War Contracts Board. (See § 1606.602–1.)

(b) Title XIII of the Second War Powers Act further provides that such inspection and audit may be made by any Governmental agency or official designated by the President or by the Chairman of the War Production Board. By Executive Order No. 9127 issued April 10, 1942 (see § 1608.803–3), the President designated the War Production Board, the War Department, the Navy Department, the Treasury Department, the United States Maritime Commission and the Reconstruction Finance Corporation, to exercise the authority contained in the Statute. As to the power of the War Shipping Administration to act under Executive Order No. 9127, reference is made to paragraph 2.i. of Executive Order 9054 as amended by Executive Order 9244 (see § 1608.805). [RR 602.2]

§ 1606.602–3 *Title 10, U. S. Code.* Section 310 (1) of Title 10, Chapter 18, U. S. Code authorizes the War and Navy Departments to obtain information by audit and inspection from any aircraft contractor. (See § 1608.803–2). [RR 602.3]

§ 1606.603 *Procedure under Title XIII of the Second War Powers Act, 1942.* [RR 603]

§ 1606.603–1 *Departmental authority under Title XIII of the Second War Powers Act, 1942.* The departments referred to in § 1606.602–2 have authority to act under Title XIII of the Second War Powers Act, 1942, and Executive Order No. 9127, quite independently of any authority given the War Contracts Board by the 1943 act. [RR 603.1]

§ 1606.603–2 *Preliminary steps.* (a) No audit is to be made by any of the Departments pursuant to Executive Order No. 9127 (see § 1608.803–3) without first advising the War Production Board. Communications on this subject should be addressed to Chief, Contract Review Branch, Procurement Policy Division, War Production Board, 4th & Independence Avenue, S. W., Washington 25, D. C. It is the intent of this notification to prevent conflict and duplication of audit with other Departments. Approval from the War Production Board should therefore be obtained before proceeding with an audit. This preliminary step is directed in the interest of orderly administration, but no failure to take such step will invalidate action under such act. [RR 603.2]

§ 1606.604 *Reports of criminal conduct in connection with war contracts.* (a) There has been set up in the Criminal Division of the Department of Justice a special unit whose duty it is to take appropriate action as expeditiously as possible in all cases in which criminal conduct is shown to exist in connection with contracts entered into by the Government with business concerns in connection with the war program.

(b) Reports of any instances of criminal conduct in such cases should contain a full statement of the facts indicating criminal conduct. Such reports should be transmitted through appropriate channels to the Department of Justice. [RR 604]

SUBPART B—FAILURE TO AGREE

§ 1606.620 *Scope of subpart.* This subpart deals with procedure on impasses in renegotiation up to the stage of court review. Court review is dealt with in Subpart C of this part. [RR 620]

§ 1606.621 *Statutory provisions.* The Renegotiation Act of 1943 provides as follows:

Sec. 403 (a):

(3) The terms "renegotiate" and "renegotiation" include a determination by agreement or order under this section of the amount of any excessive profits.

Sec. 403 (c):

(1) Whenever, in the opinion of the Board, the amounts received or accrued under contracts with the Departments and subcontracts may reflect excessive profits, the Board shall give to the contractor or subcontractor, as the case may be, reasonable notice of the time and place of a conference to be held with respect thereto. The mailing of such notice by registered mail to the contractor or subcontractor shall constitute the commencement of the renegotiation proceeding. At the conference, which may be adjourned from time to time, the Board shall endeavor to make a final or other agreement with the contractor or subcontractor with respect to the elimination of excessive profits received or accrued, and with respect to such other matters relating thereto as the Board deems advisable. Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued. If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. In the absence of the filing of a petition with The Tax Court of the United States under the provisions of and within the time limit prescribed in subsection (e) (1), such order shall be final and conclusive and shall not be subject to review or redetermination by any court or other agency. The Board shall exercise its powers with respect to the aggregate of the amounts received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the Departments and subcontracts, and not separately with respect to amounts received or accrued under separate contracts with the Departments or subcontracts, except that the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the Departments or subcontracts at the request of the contractor or subcontractor. Whenever the Board makes a determination with respect to the amount of excessive profits, whether such determination is made by order or is embodied in an agreement with the contractor or subcontractor, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in The Tax Court of the United States as proof of the facts or conclusions stated therein.

Sec. 403 (d) (4) and (5):

(4) The Board may delegate in whole or in part any power, function, or duty to the Secretary of a Department, and any power, function, or duty so delegated may be delegated in whole or in part by the Secretary to such officers or agencies of the United States as he may designate, and he may authorize successive redelegations of such powers, functions, and duties.

(5) The chairman of the Board may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. The Board may also, by regulations or otherwise, determine the character of cases to be conducted initially by the Board through an officer or officers of, or utilized by, the Board, the character of cases to be conducted initially by the various officers and agencies authorized to exercise powers of the Board pursuant to paragraph (4), the character of cases to be conducted initially by the various divisions of the Board, and the character of cases to be conducted initially by the Board itself. The Board may review any determination by any such officer, agency, or division on its own motion, or in its discretion at the request of any contractor or subcontractor aggrieved thereby. Unless the Board upon its own motion initiates a review of such determination within 60 days from the date of such determination, or at the request of the contractor or subcontractor made within 60 days from the date of such determination initiates a review of such determination within 60 days from the date of such request, such determination shall be deemed the determination of the Board. Upon any review by the Board the Board may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the officer, agency, or division whose action is so reviewed.

[RR 621]

§ 1606.622 *Departmental procedures with respect to impasse cases.* The organization of the renegotiating agencies in the various Departments and the extent to which authority within each such Department has been delegated, differ materially. Accordingly, the procedures applicable to an impasse case up to and including the entry of an order determining excessive profits will differ in each Department. [RR 622]

§ 1606.623 *Authority of departments to make unilateral determinations.* The War Contracts Board has delegated to each Secretary the authority to issue and enter an order determining the amount of the excessive profits of a contractor

who has not entered into an agreement to eliminate the same. (See § 1608.-821–1.) Successive redelegations of such authority are authorized and have been made. Any such order entered pursuant to such delegated authority is, however, subject to review by the War Contracts Board. Upon the entry of such an order notice will be given forthwith by registered mail to the contractor and a copy of such order and notice shall be sent to the Secretary of the War Contracts Board at the address specified in § 1607.791–5. Such order will become final (that is, be deemed the determination of the War Contracts Board) when and as prescribed in subsection d (5) of the 1943 act. (See §§ 1606.621 and 1606.625.) Forms which may be used with reference to such unilateral determinations under delegated authority are set out in § 1607.746, namely: order under delegated authority determining excessive profits (see § 1607.746–1), notice thereof (see § 1607.746–2) and notice of such order having become the determination of the War Contracts Price Adjustment Board (see § 1607.-746–3). [RR 623]

§ 1606.624 *Procedure for review by the War Contracts Board.* [RR 624]

§ 1606.624–1 *Review on request by the contractor.* A contractor who desires review by the War Contracts Board of a unilateral determination made under delegated authority should, promptly after notice of the order, and in any event within sixty days from the date of such determination, file a request for review. Such request should be addressed to the Secretary of the War Contracts Price Adjustment Board at the address specified in § 1607.791–5. Such request need not be in any particular form but should set forth:

(a) The name of the contractor.

(b) The fiscal period with respect to which the renegotiation has been conducted (or in the case of a renegotiation on a contract by contract basis, a description of such contracts and subcontracts).

(c) A brief summary of the issues involved. [RR 624.1]

§ 1606.624–2 *Review by the War Contracts Board on its own motion.* Any order determining excessive profits made by delegated authority may be reviewed by the War Contracts Board on its own motion within sixty days from the date of such order. [RR 624.2]

§ 1606.624–3 *Discretion of the War Contracts Board.* Review by the War Contracts Board is not a matter of right but may be granted by the War Contracts Board in its discretion on timely request of the contractor or on its own motion. [RR 624.3]

§ 1606.624–4 *Nature of review by the War Contracts Board.* The War Contracts Board may review an order determining excessive profits made pursuant to its delegated authority on the basis of the record theretofore made. In the event that the Board determines that a further conference is desirable, notice thereof will be given to the contractor. [RR 624.4]

§ 1606.625 *Finality of orders determining excessive profits.* [RR 625]

§ 1606.625–1 *Orders made by delegated authority.* The War Contracts Board has reserved the right to review any order entered pursuant to any delegated authority determining excessive profits. Accordingly, no such order becomes final (that is, deemed the determination of the War Contracts Board) until the earliest of the following:

(a) Sixty days after the order has been entered, if review is neither requested by the contractor concerned nor initiated by the War Contracts Board within that period; or

(b) Denial of review and adoption of the order by the War Contracts Board after timely request for review by the contractor (see § 1606.625–2); or

(c) Sixty days after the date of a timely request for review if such review is not granted by the War Contracts Board within that period. [RR 625.1]

§ 1606.625–2 *Orders entered by the War Contracts Board.* Upon any review by the War Contracts Board whether pursuant to request by the contractor or initiated by the Board on its own motion, the Board will enter an order determining as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the order which has been reviewed. Such order of the War Contracts Board is final immediately upon its entry. A form which may be used for such order is set out in § 1607.741–1. [RR 625.2]

§ 1606.625–3 *Notice of final order to be given to the contractor.* When an order determining excessive profits made by delegated authority has become final or an order is entered by the War Contracts Board determining excessive profits (which, as stated in § 1606.625–2, is final upon entry), notice thereof will be given forthwith by registered mail to the contractor. Forms which may be used with reference to such notices are set out in §§ 1607.746–3 and 1607.747–2. [RR 625–3]

§ 1606.625–4 *Time to appeal to Tax Court.* The ninety day period for filing a petition for redetermination in the Tax Court will run from the date of the mailing of the notice referred to in § 1606.625–3 in either of the cases referred to therein. [RR 625.4]

§ 1606.626 *Elimination of excessive profits determined by order.* [RR 626]

§ 1606.626–1 *Authorization to secretaries to eliminate excessive profits.* (a) All of the powers, functions and duties conferred upon the War Contracts Board by subsection (c) (2) of the 1943 act have been delegated by the Board under the date of February 26, 1944 to each Secretary with right of successive redelegation (see §§ 1608.801–3 and 1608.821–1). Among the methods available to each Secretary to eliminate excessive profits are reductions in amounts otherwise payable to the contractor under contracts with the Departments, withholding of amounts otherwise due the contractor, directing a contractor to withhold amounts otherwise due to a subcontractor, recovering through repayment, credit or suit, or any combination of the methods specified in such subsection as is deemed desirable.

(b) The power of each of the Secretaries to eliminate excessive profits by any of the methods or any combination of the methods referred to in subsection (c) (2) of the 1943 act, including Clauses (A), (B), (C), (D) and (E) thereof, may be exercised by each Secretary in his discretion (or by such person or persons as may have authorization to act by delegation, subdelegation or otherwise) immediately upon the making of an agreement by or on behalf of the War Contracts Board, or the entry of an order which is, or which is deemed to be the determination of the War Contracts Board, or the entry of an order under subsection (e) by The Tax Court of the United States. Such power may be so exercised without further action by the War Contracts Board.

(c) The delegation dated February 26, 1944, by the War Contracts Board delegated all the authority referred to in this section. (See § 1608.821–1.)

(d) A form which may be used to direct a contractor to withhold and a form which may be used to direct a contractor to pay over amounts withheld are found in §§ 1607.748–1 and 1607.748–2. (See also §§ 1604.423 and 1605.502–5 (d).) [RR 626.1].

§ 1606.626–2 *No delay in elimination of excessive profits determined by order.* (a) Under a renegotiation agreement, provision is frequently made for the elimination of the excessive profits over a period of time by refunds in installments or by other provisions. But if excessive profits are determined by order, no provision will be contained in such order for deferment of the obligation thereby created or any part thereof. The collection of the amount called for by such an order will be effected in accordance with the general principles governing the enforcement and collection of obligations owing to the United States as supplemented by the special powers and procedures contained in the Renegotiation Act.

(b) The filing of a petition in The Tax Court of the United States for a redetermination does not operate to stay the execution of the order determining excessive profits (see subsection (e) (1) of the 1943 act).

(c) Interest at the rate of 6% per annum accrues upon the amount determined as excessive profits to be eliminated less the tax credit, if any, from and after the date fixed in the demand for payment. (See §§ 1607.746–3 and 1607.747–2) [RR 626.2]

§ 1606.626–3 *Elimination of excessive profits determined by the Tax Court.* Any excessive profits determined by order of the Tax Court in proceedings for redetermination and which have not theretofore been eliminated will also be eliminated by appropriate action. (See § 1606.637.) [RR 626.3]

SUBPART C—PROCEEDINGS IN THE TAX COURT

§ 1606.630 *Scope of subpart.* The 1943 act provides that certain contractors and

subcontractors may institute proceedings in The Tax Court of the United States for a redetermination of the amount of excessive profits received or accrued by them. This subpart is devoted to a consideration of the provisions of the act applicable to such proceedings with respect to fiscal years ending after June 30, 1943. [RR 630]

§ 1606.631 *Statutory provisions.* Portions of section (c) (1) and the whole of section (e) (1) of the 1943 act are set out below:

(c) (1) * * * If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. In the absence of the filing of a petition with The Tax Court of the United States under the provisions of and within the time limit prescribed in subsection (e) (1), such order shall be final and conclusive and shall not be subject to review or redetermination by any court or other agency. * * * Whenever the Board makes a determination with respect to the amount of excessive profits, whether such determination is made by order or is embodied in an agreement with the contractor or subcontractor, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in The Tax Court of the United States as proof of the facts or conclusions stated therein.

* * * * *

(e) (1) Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may, within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing of the notice of such order under subsection (c) (1), file a petition with The Tax Court of the United States for a redetermination thereof. Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Tax Court to finally determine the amount, if any, of excessive profits shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. For the purposes of this subsection the court shall have the same powers and duties, insofar as applicable, in respect of the contractor, the subcontractor, the Board and the Secretary, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by The Tax Court of decisions of divisions, stenographic reporting, and reports of proceedings, as such court has under sections 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118, 1120, and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. In the case of any witness for the Board or Secretary, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board or Department available for that purpose, and in the case of any other witnesses, shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this subsection shall not operate to stay the execution of the order of the Board under subsection (c) (2).

[RR 631]

§ 1606.632 *Right to institute proceedings in the Tax Court.* [RR 632]

§ 1606.632–1 *Forum for redetermination.* Subsection (e) (1) of the 1943 act confers exclusive jurisdiction upon The Tax Court of the United States to entertain proceedings "to finally determine the amount" of excessive profits received or accrued by contractors or subcontractors who are authorized to institute proceedings for a redetermination. [RR 632.1]

§ 1606.632–2 *Statutory authority.* Subsection (e) (1) of the 1943 act grants the right to institute proceedings before the Tax Court only to contractors or subcontractors (including subcontractors described in subsection (a) (5) (B)—i. e., war contract brokers) aggrieved by an order of the War Contracts Board determining the amount of excessive profits. (Note: As to the rights of a contractor or subcontractor aggrieved by a determination of a Secretary with respect to a fiscal year ending before July 1, 1943, see subsection (e) (2), § 1608.801–5.) [RR 632.2]

§ 1606.632–3 *Determinations embodied in agreements.* A contractor or subcontractor who has entered into an agreement with respect to the elimination of excessive profits is granted no right to institute proceedings for a redetermination. [RR 632.3]

§ 1606.633 *Nature of the proceeding in the Tax Court.* Subsection (e) (1) of the 1943 act expressly provides that the proceeding before the Tax Court "shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo." Thus, the 1943 act contemplates that the redetermination to be made by the Tax Court shall not be made upon the basis of the record of the prior determination made by the War Contracts Board, but shall be arrived at by the Tax Court on the basis of the record made before it. The redetermination proceeding in the Tax Court is apparently intended to be de novo in the same sense as the redetermination of a tax deficiency in the same court. In such proceeding neither the aggrieved party nor the Government is restricted by or limited to the issues, facts, or legal theories presented in the renegotiation proceeding. [RR 633]

§ 1606.634 *Power of the Tax Court.* [RR 634]

§ 1606.634–1 *As to the determination of excessive profits.* The Tax Court has statutory power to determine as the amount of excessive profits an amount either less than, equal to, or greater than, that determined by the War Contracts Board. [RR 634.1]

§ 1606.634–2 *Finality of determination.* The 1943 act, in conferring jurisdiction upon the Tax Court, provides that upon the filing of a petition within the prescribed time the court shall "have exclusive jurisdiction by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court of agency." (See also subsection (c) (1) of the 1943 act in § 1606.631.) [RR 634.2]

§ 1606.635 *Proceedings before the Tax Court.* [RR 635]

§ 1606.635–1 *Institution of proceeding.* A proceeding for a redetermination in the Tax Court is instituted by the filing of a petition by the contractor or subcontractor. [RR 635.1]

§ 1606.635–2 *Rules of the Tax Court.* The rules of the Tax Court with respect to proceedings before it under the 1943 act are set out in § 1608.806. [RR 635.2]

§ 1606.635–3 *Time for filing petition.* The contractor or subcontractor who desires to institute proceedings in the Tax Court must file his petition within 90 days (not counting Sunday or a legal holiday, in the District of Columbia, as the last day) after the mailing of the notice of the order of the War Contracts Board determining the amount of excessive profits. (See §§ 1606.625–3 and 1606.625–4.) [RR 635.3]

§ 1606.635–4 *Effect of petition.* The filing of a petition does not operate to stay the execution of the order of the War Contracts Board. (See § 1606.626–2 (b).) [RR 635.4]

§ 1606.635–5 *Conduct of proceedings before the Tax Court.* Subsection (e) (1) of the 1943 act provides that the Tax Court shall have the same powers and duties insofar as applicable in respect of the contractor, the subcontractor, and the War Contracts Board, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by the Tax Court of decisions of divisions, stenographic reporting and reports of proceedings, as the Tax Court has under sections 1110, 1111, 1113, 1114, 1115(a), 1116, 1117(a), 1118, 1120 and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. [RR 635.5]

§ 1606.636 *Determination of excessive profits by the Tax Court.* [RR 636]

§ 1606.636–1 *Statement of the War Contracts Board.* Under the provisions of subsection (c) (1) of the 1943 act, the War Contracts Board is required, at the request of the contractor or subcontractor, to prepare and furnish a statement of its determination, of the facts used as the basis therefor, and of its reasons for such determination. It is expressly provided that "such statement shall not be used in The Tax Court of the United States as proof of the facts or conclusions stated therein." Under the rules of the Tax Court, however, a copy of such statement is to be appended to the contractor's petition. (See § 1608.806.) [RR 636.1]

§ 1606.636–2 *Determination of costs* (a) Subsection (a) (4) (B) of the 1943 act provides that the costs of the con-

tractor shall be determined in accordance with the method of cost accounting regularly employed by him in keeping his books, but further provides that if no such method of cost accounting has been employed, or if, in the opinion of the Tax Court, such method does not properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Tax Court does properly reflect such costs.

(b) The Tax Court under this subsection is also required to disallow as a cost any item of cost which is unreasonable or not properly chargeable to the contracts or subcontracts involved in the proceeding before it. The Tax Court must allow as items of cost, to the extent allocable to such contracts and subcontracts, all items estimated to be allowable as deductions and exclusions under Chapters 1 and 2E of the Internal Revenue Code (excluding taxes measured by income) and to adjust the amount of excessive profits to be eliminated to the extent of taxes measured by income (other than Federal taxes) which are attributable to the portion of the profits which are not excessive.

(c) Unless there has been an agreement or stipulation with respect to the proper segregation of renegotiable and non-renegotiable business, the proceedings in the Tax Court necessarily will involve a determination by the Tax Court with respect to such segregation. [RR 636.2]

§ 1606.636–3 *Factors to be considered by the Tax Court.* Subsection (a) (4) (A) provides that the factors set forth therein shall be taken into consideration in determining "excessive profits." Inasmuch as the Tax Court is charged with the duty of determining the amount of excessive profits, it, as well as the War Contracts Board, must take into consideration such factors. [RR 636.3]

§ 1606.637 *Enforcement of redetermination made by the Tax Court.* As subsection (e) (1) of the 1943 act provides that the filing of a petition thereunder shall not operate to stay the execution of the order of the Board under subsection (c) (2), it is likely that excessive profits will have been partially or wholly eliminated prior to a redetermination of excessive profits by the Tax Court. To the extent that such profits are not so eliminated prior to the decision of the Tax Court, action will be taken to eliminate them thereafter. In this connection reference is made to § 1606.626–3. [RR 637]

PART 1607—FORMS FOR RENEGOTIATION

SUBPART A—FORMS RELATING TO IDENTIFICATION, ASSIGNMENT AND CANCELLATION OF CASES

SUBPART B—FORMS RELATING TO OPERATION OF RENEGOTIATION

SUBPART C—FORMS RELATING TO TAX CREDIT

SUBPART D—FORMS RELATING TO AGREEMENTS AND UNILATERAL DETERMINATIONS

SUBPART E—FORMS OF REPORT

PART 1607—FORMS FOR RENEGOTIATION

SUBPART A—FORMS RELATING TO IDENTIFICATION, ASSIGNMENT AND CANCELLATION OF CASES

§ 1607.701 *Forms for mandatory filing of financial statements under subsection (c) (5) (A).* [RR 701]

§ 1607.701–1 *Standard form of contractor's report.*

Refer to LPI _____

STANDARD FORM OF CONTRACTOR'S REPORT

(To be filed in duplicate)

From: _____
_____
_____

TO THE WAR CONTRACTS PRICE ADJUSTMENT BOARD OR THE JOINT PRICE ADJUSTMENT BOARD:

SECTION A

I. Attached hereto are two copies of our Financial Statements, consisting of Balance Sheet, Income and Profit and Loss Statement and Surplus Statement for the calendar year 1943, or for our latest complete fiscal year. (See Instruction No. 1.)

II. We estimate that our total business, exclusive of that under cost-plus-fixed-fee (CPFF) contracts, during our latest complete fiscal year (ended _____, 194__) consisted of the following: (See Instruction No. 2.)

A. Subject to renegotiation:	
1. Direct sales (prime contracts and purchase orders) (See Instructions Nos. 3, 6)	$_____
2. Indirect sales for war end use (subcontracts of any tier, purchase orders, etc., except those shown in 3 and 4) (See Instructions Nos. 4, 5, 6)	_____
3. Commissions and other income, within the meaning of Sec. 403 (a) (5) of the Renegotiation Act (See Instruction No. 7)	_____
4. Other (see Instruction No. 8)	_____
5. Subtotal of business subject to renegotiation (Exclusive of CPFF)	_____
B. Not subject to renegotiation (see Instruction No. 9):	
1. Sales, direct or indirect to the Departments and other Agencies named in the Act, but exempt from renegotiation	_____
2. Sales made neither directly nor indirectly to the Departments and other Agencies named in the Act	_____
3. Subtotal of business not subject to renegotiation	_____
C. Total business for period (exclusive of CPFF)	$_____

III. We (did) (did not) have CPFF contracts during our latest closed fiscal year. If answer is affirmative statement in duplicate of total billings, costs, and net fees applicable thereto is attached. (See Instruction No. 10.)

IV. Our over-all cost of manufacture was divided approximately as follows: (See Instruction No. 11.)

Materials used (including parts and sub-assemblies purchased) _____	_____%
Salaries and wages _____	_____%
Other costs _____	_____%
Total _____	100%

V. We believe that the Governmental Agency which had the greatest financial interest in our business (direct and indirect including CPFF) subject to the provisions of the Renegotiation Act was (see Instruction No. 12) _____,

(Department or Agency)

_____

(Service or Bureau or Reconstruction Finance Corporation subsidiary)

VI. Listed below, in order of importance, are the three principal products sold or services rendered entering into renegotiable business for our latest complete fiscal year, and the functions performed by us with respect to each, such as manufacturing, assembling, distributing, etc.

Product or service	*Function*
1. _____	_____
2. _____	_____
3. _____	_____

VII. Salaries and other compensation (including commissions, bonuses and other forms of extra compensation) to our highest paid officers and employees (not exceeding five in number) who received $10,000 or more per annum for our latest complete fiscal year were as follows:

Name and title	*Amount*
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

VIII. The estimated cost of facilities furnished or financed by the United States Government as of the close of our latest complete fiscal year was $_____.

IX. Profit before Federal taxes on income, shown by financial statements submitted in accordance with Item I above (does) (does not) differ by more than 5 percent from net income shown by Federal income tax returns filed or to be filed for the year. (If difference is in excess of 5 percent, explanation of major components of difference is attached in duplicate.)

X. Charges for post-war conversion or reconversion, inventory reserves, contingencies or other items not deductible for tax purposes (are) (are not) included in costs and expenses in the statements for our latest complete fiscal year submitted herewith. (If statement is affirmative, a schedule showing details is attached, in duplicate.)

XI. There (were) (were no) changes in the form or control of our organization (including reorganizations, dissolutions, acquisition and/or disposal of subsidiaries, etc.) during our latest complete fiscal year. (If statement is affirmative, an explanation is attached, in duplicate.)

XII. We (have) (have not) entered into a formal agreement or received an authorized clearance notice under the Renegotiation Act with respect to any of our past fiscal years. If answer is affirmative, name and address of Price Adjustment Board or Section is given below:

SECTION B

(Items XIII, XIV, and XV, comprising Section B of this report are not required to be filled out by contractors or subcontractors who have entered into formal agreements or received authorized clearance notices under the Renegotiation Act with respect to any past fiscal years. However, the data, if furnished, will expedite the disposition of the case and should be presented if readily available.)

XIII. Attached hereto are the following:

(A) A brief statement (in duplicate) of the nature of our pre-war business and the extent and approximate date of its conversion to the war effort; also a brief description of our principal peacetime products.

(B) A statement (in duplicate) showing names and addresses of our parent, subsidiary and affiliated companies or organizations with a brief description of the character of their business and the nature and extent of their affiliation. Included also is a statement as to whether or not we believe that the operations of such companies or organizations should be consolidated with those of this company for renegotiation on an overall basis if such renegotiation be required.

XIV. Condensed income data for prior years, exclusive of charges for extraordinary reserves and other items not allowed as de-

ductions for tax purposes, are shown below (in thousands of dollars) (See Instruction No. 15):

Years ended	1942	1939	1938	1937	1936
(1) Net sales					
(2) Taxable net income per Federal tax return					
(3) Net fees on CPFF contracts (included in line 2)					

XV. Salaries and other compensation (including commissions, bonuses and other forms of extra compensation) to our highest paid officers and employees (not exceeding five in number) who received $10,000 or more per annum for any of our fiscal years indicated below, as follows:

Name and title	1942	1941	1940	1939
1.				
2.				
3.				
4.				
5.				

(Exact name of contractor—not abbreviated)

(State of incorporation)

By ---
(Authorized corporate officer, partner or proprietor)

(Title)

Date ---

I, the undersigned, ---
(Title of signer and name of ---- certify that the representations contractor)
and supporting data hereby submitted are true and correct and in accordance with instructions furnished with this form to the best of my knowledge and belief, subject to such qualifications as are specifically set forth.

(Signature)

[RR 701.1]

§ 1607.701–2 *Instructions for preparation of standard form of contractor's report.*

INSTRUCTIONS FOR PREPARATION OF STANDARD FORM OF CONTRACTOR'S REPORT

Be sure to use the correct form of report.

Three separate Standard Forms of Contractor's Report have been prescribed by the War Contracts Price Adjustment Board, for the following types of business covered by the Renegotiation Act:

1. Persons principally engaged in manufacturing and general business other than (2) and (3) below. (Form entitled "Standard Form of Contractor's Report.")

2. Persons principally engaged on construction projects, including those operating under architect-engineer contracts. (Form entitled "Standard Form of Contractor's Report (For Construction Contractors, Architects, and Engineers).")

3. Brokers, sales agents, etc., as defined in subsection (a) (5) of the Renegotiation Act. (Form entitled "Standard Form of Contractor's Report (For Agents, Brokers, and Sales Engineers).")

Filing of the Appropriate "Standard Form of Contractor's Report" in satisfactory form is required to comply with the statutory filing provisions in subsection (c) (5) (A) of the 1943 Renegotiation Act. If the attached is not the appropriate form, copies of the proper form can be obtained by writing to War Contracts Price Adjustment Board, assignments and Statistics Branch, Renegotiation Division, Room 3D 573, The Pentagon, Washington 25, D. C., or the office from which this document was received.

1. *Item I.* Copies of audit reports by independent public accountants should be submitted if available. If such audit reports have not been prepared, in lieu thereof there should be submitted in duplicate financial statements for the latest closed fiscal year, consisting of (A) a balance sheet, as of the close of such fiscal year, and (B) a statement of income and surplus for such fiscal year. These statements must be in reasonable detail; the balance sheet must show the gross plant account and related allowance for depreciation; each reserve must be stated separately; and the income statement must show sales and cost of sales. Unaudited statements may be filed if they are in accord with the contractor's records and if the contractor certifies that the statements are correct to the best of his knowledge and belief. All deviations from the contractor's records should be noted and explained.

2. *Item II.* For the purpose of this report, a careful estimate by the contractor as to the segregation of his renegotiable and non-renegotiable business will be accepted and received without prejudice. Attention is directed to Instruction No. 5, relative to the inclusion of renegotiable subcontracts.

3. *Item II–A–1. Direct sales* subject to renegotiation should include the total amount of contractor's net billings for his latest complete fiscal year on direct sales (under prime contracts and purchase orders except those based on cost-plus-fixed-fee contracts) to the War, Navy and Treasury Departments, Maritime Commission, War Shipping Administration and the following subsidiaries of the Reconstruction Finance Corporation, Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company; sales under lend-lease contracts may be classified according to the Agency through which the contracts were negotiated.

4. *Item II–A–2. Indirect sales* for war end use should include the total amount of contractor's net billings for his latest complete fiscal year on indirect sales (under subcontracts of any tier, as interpreted below) except those to be entered as II–A–3 and –4, and those based on cost-plus-fixed-fee contracts.

5. *Interpretation of subcontract.* Under the statutory definition of "subcontract" (Sec. 403 (a) (5)), profits on the production and sale, or the sale, of articles required for the performance of another contract or subcontract are subject to renegotiation, as well as profits on the production or sale of all materials, down to and including raw materials, except certain specified products exempted under subsection (i) of the Act. This definition is interpreted to include contracts not only with prime contractors but also with other subcontractors, if such contracts are—

a. for the sale or processing of an end product or of an article incorporated therein,

b. for the sale, furnishing or installation of machinery, equipment or materials used in the processing of an end product or of an article incorporated therein,

c. for the sale, furnishing or installation of machinery used in the processing of other machinery to be used in the processing of an end product or of an article incorporated therein,

d. for the sale, furnishing or installation of component parts of or subassemblies for machinery included in (c) above and machinery, equipment and materials included in (b) above, and

e. for the performance of services directly required for the performance of contracts or subcontracts included in (a), (b), (c), and (d) above.

The term *"component part"* shall be deemed to include materials and ingredients.

With respect to machinery, equipment or materials "used in processing."

(1) In general it is intended to include as subject to statutory renegotiation the sale of all machinery, equipment, materials and other articles which contribute directly to the actual production of an end item or an article incorporated therein, in connection with the physical handling of the item from the time of entry of the component materials to departure of the item from the plant in question and to include all machinery which similarly contributed directly to the actual production of other machinery so used.

(2) It is intended to exclude the sale of articles which contribute only indirectly to the actual manufacturing process, such as (a) products used for general plant maintenance, including fuel and equipment to produce light, heat and power, (b) equipment needed for general office maintenance, including all types of office machinery and supplies, and (c) safety equipment and clothing.

(3) It is not intended, however, to exclude from renegotiation any articles otherwise subject to renegotiation which are sold directly to a Department, or to a contractor when the items are to be ultimately resold to a Department either as end products or as component parts included therein.

The term *"articles"* in the statutory definition of subcontract is interpreted to include commercial products as well as equipment fabricated for particular uses or purposes.

The fact that *commercial products* are sold for industrial uses, either directly or through jobbers or other commercial channels, does not exclude such articles from this definition. The same tests are applied to both ordinary commercial products and equipment fabricated for special uses and purposes.

The fact that articles are sold under *price ceilings* fixed by OPA or as the result of *competitive bidding* does not exclude the sale of such articles from renegotiation.

6. *Contracts subject to profit limitations.* If the contractor made deliveries under contracts or subcontracts subject to profit limitations, the total billings under such contracts should be included as part of renegotiable sales, but should also be shown in a separate schedule, in duplicate, in which should be stated the amount so included.

7. *Item III–A–3. "Commissions and other income, within the meaning of Sec. 403 (a) (5) of the Renegotiation Act"* refers to income as recorded on the contractor's books, from the execution of any contract or arrangement (a) to procure one or more contracts with a Department or one or more war end use subcontracts when the amount of such income was contingent upon such procurement, or was determined with reference to the amount of such contracts or subcontracts or (b) under which any part of the services performed or to be performed, consisted of the soliciting, attempting to procure or procuring one or more contracts with a Department or one or more war end use subcontracts.

A contract or arrangement for this purpose does not exist when one of the contracting parties is a bona fide executive officer, partner, or full-time employee of the other contracting party.

8. *Item II–A–4. Other renegotiable business.* Any income, receipts, or accruals, such as royalties, management fees, etc.; (except from cost-plus-fixed-fee contracts), not included in II–A–1, –2, or –3, which are subject to renegotiation, should be entered on this line.

9. *Item II–B. Business not subject to renegotiation.* Certain direct and indirect sales exempted from renegotiation by subsection (i) of the Act and administrative rulings thereunder, should be entered as II–B–1. Other sales, excluded because they were not made, directly or indirectly, to Departments and Agencies named in the Act, should be entered as II–B–2.

Since the difficulty of making an accurate segregation between sales "Subject to Renegotiation" and those "Not Subject to Renegotiation", is recognized, contractors should take care to report as "Subject to Renegotiation" all business except that which

is clearly not renegotiable as a matter of law or of administrative ruling. Such a report will be received without prejudice.

10. *Item III. Cost-plus-fixed-fee (CPFF) contracts.* If the contractor performed under one or more cost-plus-fixed-fee direct contracts or subcontracts subject to the Renegotiation Act, during his latest closed fiscal year, he should report in a separate statement in duplicate, the total of his billings, costs, and net fees thereunder. If he is unable to report costs, an explanation of the reasons therefor should be submitted.

11. *Item IV.* The percentages entered in IV relate to the cost of manufacturing products sold under fixed price contracts or in the regular course of business, but not to cost-plus-fixed-fee contracts. The percentages should be based on manufacturing costs only, and should not relate to amounts which include selling and administrative expenses. If the information requested cannot be readily obtained or estimated, a statement outlining the difficulties involved must be submitted.

12. *Item V.* There should be entered on the first blank line the name of the renegotiating Department or Agency (e. g. Navy, Reconstruction Finance Corporation) and on the second blank line the name of the related Service, Bureau or R. F. C. subsidiary (e. g. Bureau of Ordnance, Defense Supplies Corporation) which the contractor believes (without detailed analysis) purchased the largest proportion of his war end use output during the latest complete fiscal year, both under direct contracts and as components of products acquired from other contractors.

The Governmental Agencies which conduct renegotiation proceedings are:

1. War Department.
2. Navy Department.
3. Maritime Commission.
4. War Shipping Administration.
5. Treasury Department.
6. Reconstruction Finance Corporation, on behalf of its subsidiaries:

Defense Plant Corporation.
Defense Supplies Corporation.
Metals Reserve Company.
Rubber Reserve Company.

The interested Services included in the War Department are:

Army Air Forces.
Chemical Warfare Service.
Corps of Engineers.
Ordnance Department.
Quartermaster Corps.
Signal Corps.
Surgeon General.
Transportation Corps.

The interested Bureaus included in the Navy Department are:

Bureau of Aeronautics.
Bureau of Ordnance.
Bureau of Ships.
Bureau of Supplies and Accounts.
Bureau of Yards and Docks.

13. *Section B.* Items XIII, XIV and XV, comprising Section B of this report are not required to be filled out by contractors or subcontractors who have entered into formal agreements, or received authorized clearance notices under the Renegotiation Act with respect to any past fiscal years. However, the data, if furnished, will expedite the disposition of the case and should be presented if readily available.

14. *Item XIII–B.* By "affiliated companies or organizations" is meant all persons under the control of or controlling or under common control with the contractor or subcontractor.

15. *Item XIV.* The information as to operations of the contractor for the indicated taxable years is necessary for the proper consideration of the effect of war business on the volume of sales and amount of profits. If the profits for any of the fiscal years relate to operations under cost-plus-fixed-fee contracts, the amount of the net fees on such contracts should be shown on line (3) of Item XIV as a memorandum, and should also be included in "Taxable net income per Federal tax return" (line 2). Gross billings and costs under such contracts should not be included.

16. *If information previously filed.* If all of the information called for by this form has been furnished the Price Adjustment Agency to which the contractor has been assigned, this Standard Form of Contractor's Report can be completed by reference, stating specifically the place and date of filing. When certified by the appropriate Price Adjustment Agency that it has received such information, this report will be accepted by the War Contracts Price Adjustment Board as having complied with mandatory filing under the first sentence of subsection (c) (5) (A) of the 1943 Act.

[RR 701.2]

§ 1607.701–3 *Standard form of contractor's report (for construction contractors, architects, and engineers).*

Refer to LPI _____

STANDARD FORM OF CONTRACTOR'S REPORT

(FOR CONSTRUCTION CONTRACTORS, ARCHITECTS AND ENGINEERS)

(To be filed in duplicate)

From: _____
_____
_____

To: The War Contracts Price Adjustment Board or the Joint Price Adjustment Board:

SECTION A

I. Attached hereto are copies of our Federal Income Tax and Excess Profits Tax Returns for the calendar year 1943, or for our latest completed fiscal year. The method of reporting for Income Tax purposes is: (a) Cash ____, (b) Accrual ____, (c) Completed job basis ____, (d) Percentage of Completion basis ____. If the Tax Return does not disclose gross contract earnings and job costs, a schedule of these items is attached hereto.

II. Our method of accounting employed for book purposes is the _____ basis, and we estimate that our total business during our latest completed fiscal year (ended _____, 194__) consisted of the following: (See Instruction No. 1).

A. *Subject to renegotiation.* (See Instruction No. 1):

1. Construction work (prime contracts and subcontracts):	
Lump sum or unit price work	$_____
Cost-plus-fixed-fee work (reimbursables plus fixed fee and any other earnings)	_____
Contractor's proportionate share of total joint venture business (See Instruction No. 2)	_____
Other (describe briefly)	_____
Total construction work	_____
2. Rental income from owned equipment not included in construction business	_____
3. Sales for war end use and other earnings	_____
4. Total of business subject to renegotiation	_____

B. *Not subject to renegotiation.* (See Instruction No. 3.)

1. Construction work, rentals, sales and other gross business directly or indirectly with the Departments and other Agencies named in the Act, but exempt from renegotiation	$_____
2. Other business neither directly or indirectly with the Departments and other Agencies named in the Act	_____
3. Total of business not subject to renegotiation	_____

C. Total business during latest completed fiscal year $_____

III. Our total business listed above was divided as follows:

	Completed business	Uncompleted business	Total business
Subject to renegotiation	$_____	$_____	$_____
Not subject to renegotiation	_____	_____	_____
Total business	$_____	$_____	$_____

IV. We believe that the Government Department or Agency which had the greatest financial interest in the above business (direct and indirect) subject to the provisions of the Renegotiation Act was (See Instruction No. 5)

_____
(Department or Agency)

_____
(Approximate percent of total business)

V. Commissions within the meaning of Section 403 (a) (5) of the Renegotiation Act (were) (were not) received or accrued by us. If answer is affirmative, a statement in duplicate showing the amount and an explanation thereof is attached. (See Instruction No. 6.)

VI. There (were) (were not) changes in the form or control of organization (including reorganizations, dissolutions, acquisition and/or disposal of subsidiaries etc.) during the latest completed fiscal year. (If statement is affirmative, an explanation in duplicate is attached.)

SECTION B

(Items VII through XII, comprising Section B of this report, are not required to be filled out by contractors or subcontractors in the event that their estimate of business subject to the Renegotiation Act as shown in Item II A and Item II B–1 together does not exceed the statutory minimum)

VII. We are organized as a: Corporation ____ Partnership ____ Individual ____ Joint Venture ____. Attached hereto is a statement in duplicate of the information required by Instruction No. 7.

VIII. There (were) (were not) during the period under review partners or persons having an interest in our Government contracts or other Government business who were not signatories to the contracts or agreements. If answer is affirmative, a full explanation in duplicate is attached hereto.

IX. We (are) (are not) directly or indirectly interested in any of the subcontractors or any of the firms or corporations from whom we have purchased or rented materials or equipment for this contract. If answer is affirmative, an explanation in duplicate is attached.

X. Attached hereto are the following:

A. A brief statement in duplicate of the history of our organization and operations.

B. A list in duplicate of the names and addresses of all subsidiaries, affiliated companies, and organizations or persons under the control or controlling, or under common control with the contractor, with an explanation of the relationships.

XI. Attached hereto is a schedule in duplicate of contract data showing the information required by Instruction No. 8 for each contract and subcontract in excess of $50,000 as reported in Item II A. All contracts less than $50,000 are reported in total only.

XII. Attached hereto is a schedule in duplicate of contract data showing the information required by Instruction No. 9 for each contract and subcontract in excess of $50,000 as reported in Item II B. All contracts less than $50,000 are reported in total only.

(Exact name of contractor—not abbrievated)

By ---

(Authorized corporate officer, partner or proprietor)

(Title)

Date---

I, the undersigned, ---

(Title of signer and name of contractor)

certify that the representations and supporting data hereby submitted are true and correct and in accordance with instructions furnished with this form to the best of my knowledge and belief, subject to such qualifications as are specifically set forth.

(Signature)

[RR 701.3]

§ 1607.701–4 *Instructions for preparation of standard form of contractor's report (for construction contractors, architects and engineers).*

INSTRUCTIONS FOR PREPARATION OF STANDARD FORM OF CONTRACTOR'S REPORT

(For Construction Contractors, Architects and Engineers)

Be sure to use the correct form of report.

Three separate Standard Forms of Contractor's Report have been prescribed by the War Contracts Price Adjustment Board, for the following types of business covered by the Renegotiation Act:

1. Persons principally engaged in manufacturing and general business other than (2) and (3) below. (Form entitled "Standard Form of Contractor's Report.")

2. Persons principally engaged on construction projects, including those operating under architect-engineer contracts. (Form entitled "Standard Form of Contractor's Re-Report (For Construction Contractors, Architects, and Engineers).")

3. Brokers, sales agents, etc., as defined in subsection (a) (5) of the Renegotiation Act. (Form entitled "Standard Form of Contractor's Report (For Agents, Brokers, and Sales Engineers).")

Filing of the Appropriate "Standard Form of Contractor's Report" in satisfactory form is required to comply with the statutory filing provision in subsection (c) (5) (A) of the 1943 Renegotiation Act. If the attached is not the appropriate form, copies of the proper form can be obtained by writing to War Contracts Price Adjustment Board, Assignments and Statistics Branch, Renegotiation Division, Room 3D 573, The Pentagon, Washington 25, D. C., or the office from which this document was received.

1. *Item II.* Total business should include the aggregate of the amounts received or accrued in the latest completed fiscal year (according to the method of accounting employed by the contractor or subcontractor in keeping his books) from construction contracts, equipment rentals, sales and other business. The method of accounting employed for book purposes should be stated.

For the purpose of this report, it is not necessary to have an exact segregation of business as to renegotiable and non-renegotiable, if such would require detailed accounting analysis. For the present, if necessary, the contractor's best estimate will be accepted and received without prejudice. However, a more accurate analysis may have to be made if the contractor's representation of renegotiable business approaches the statutory minimum. Also, if renegotiation proceedings are to be continued, a request for more accurate segregation and allocation may be made.

2. *Item II–A–1.* In reporting contractor's proportionate share of joint venture business, gross contract and other earnings of each joint venture, including reimbursements in the case of cost-plus-a-fixed-fee joint venture contracts, should be taken into account.

3. *Item II–B. Sales not subject to renegotiation.* Certain direct and indirect sales have been exempted from renegotiation by subsection (i) of the Act and administrative rulings thereunder. Since the difficulty of making an accurate segregation between sales "Subject to Renegotiation" and those "Not Subject to Renegotiation", is recognized, contractors should report as "Subject to Renegotiation" all business except that which is clearly not renegotiable as a matter of law or of administrative ruling. Should a continuance of renegotiation proceedings be required, necessary corrections in the segregation on the Standard Form of Contractors Report (for Construction Contractors, Architects and Engineers) will be made.

4. *Item II–B. Construction contracts awarded as a result of competitive bidding.* The War Contracts Price Adjustment Board has adopted the following interpretation of the exemption under the Renegotiation Act of construction contracts awarded as a result of competitive bidding: The exclusion from renegotiation of construction contracts with a Department awarded as a result of competitive bidding applies only to contracts for the construction of buildings, structures, improvements and other similar facilities let to the lowest qualified bidder and which were entered into after advertisement and for which bids have been received from two or more independent, responsible and qualified contractors in actual competition with each other. This section of the Act is applicable only to amounts received or accrued under such contracts for fiscal years ending after June 30, 1943, and applies regardless of the date when the contracts were made. Contracts for the furnishing of materials or supplies or for the lease or sale of machinery or equipment are not deemed to be within the scope of this provision of the Act.

The Board has found that competitive conditions affecting the making of construction contracts and subcontracts entered into subsequent to June 30, 1943, were such as to result in effective competition with respect to the contract or subcontract price where all of the following conditions exist:

(1) The contract or subcontract is one for the construction of buildings, structures, improvements or other similar facilities. Contracts and subcontracts for the furnishing of materials or supplies or for the lease or sale of machinery or equipment are not within the scope of this exemption.

(2) The contract was entered into subsequent to June 30, 1943, and did not constitute a substitute for or a revision or extension of an existing contract entered into on or before June 30, 1943.

(3) The work covered by the contract was substantially the same as the work for which the bids were requested.

(4) Bids were received from two or more responsible and qualified contractors, who were independent of each other and were in actual competition with each other for the work for which bids were requested.

(5) The contract price was not in excess of the low bid received.

5. *Item IV.* There should be entered on the first blank line the name of the renegotiating Department or Agency (e. g. Navy, Reconstruction Finance Corporation) which during the contractor's latest completed fiscal year had the largest proportionate interest in his war end use business both under direct contracts and as components of products acquired from other contractors.

The Governmental Agencies which conduct renegotiation proceedings are as follows:

1. War Department.
2. Navy Department.
3. Maritime Commission.
4. War Shipping Administration.
5. Treasury Department.
6. Reconstruction Finance Corporation, on behalf of its subsidiaries:
   Defense Plant Corporation.
   Defense Supplies Corporation.
   Metals Reserve Company.
   Rubber Reserve Company.

6. *Item V.* "Commissions within the meaning of Sec. 403 (a) (5) of the Renegotiation Act" refers to income as recorded on the contractor's books, from the execution of any contract or arrangement (a) to procure one or more contracts with a Department or one or more war end use subcontracts when the amount of such income was contingent upon such procurement, or was determined with reference to the amount of such contracts or subcontracts, or (b) under which any part of the services performed or to be performed, consists of the soliciting, attempting to procure or procuring one or more contracts with a Department or one or more war end use subcontracts.

A contract or arrangement for this purpose does not exist when one of the contracting parties is a bona fide executive officer, partner, or full-time employee of the other contracting party.

7. *Item VII.* If a Corporation, give date of incorporation and state in which incorporated. Also give names, addresses of officers together with their respective percentages of stock ownership.

If a Partnership, state the date of formation, and give names and addresses of all partners and their respective percentages of interest in its income.

If a Joint Venture, give date of formation, and names and addresses of all participants together with their respective percentages of interest in its income.

Where two or more parties enter into an arrangement for the performance jointly of one or more projects the combination resulting from such arrangement is commonly referred to as a "Joint Venture". Such a Joint Venture is regarded as an entity which, with respect to its contracts or subcontracts within the scope of the Renegotiation Act of 1943, is a "contractor" or "subcontractor" within the meaning of the Act. Therefore, each Joint Venture is renegotiated separately with respect to its renegotiable contracts and subcontracts.

8. *Item XI.* Submit the following information for each contract and subcontract in excess of $50,000 as reported in Item II–A. No detail is required for contracts of less than $50,000. The total sum of all such contracts may be reported as one amount.

A. Contract number of each contract or subcontract. Show under this Item the Government or other prime contract number and, if a subcontract the Government or other number assigned to the related prime contract.

B. Type of contract (advertised or negotiated; lump sum unit price or cost-plus-a-fixed-fee; prime contract or subcontract; architect-engineer, construction or combination).

C. If a prime contract, with what Department made (War, Navy, Treasury Departments, Maritime Commission, War Shipping Administration, Defense Plant Corporation,

Metals Reserve Company, Defense Supplies Corporation, Rubber Reserve Company).

D. If a subcontract, name and address of prime contractor, and Department with which he made contract, if available.

E. Total contract price, including amendments. In the case of cost-plus-a-fixed-fee contracts, show separately the estimated cost, final cost, and fee.

F. Brief description of work.

G. Location of work.

H. Amounts and percentages completed at beginning and end, respectively, of fiscal year.

I. Approximate percent and types of work subcontracted to others. List each subcontract let in excess of $50,000, showing the name and address of the subcontractor, type and amount of work subcontracted.

J. Date work was commenced and completed, or estimated completion date.

K. State year or years in which income was reported for tax purposes and, if reported in more than one year, the amount reported in each year.

L. If a joint venture contract, list the names and addresses of all joint venturers.

9. *Item XII.* Submit information showing for each contract and subcontract in excess of $50,000 as reported in Item II–B the details as shown in A through G of Item XI above. No detail is required for contracts of less than $50,000. The total sum of all such contracts may be reported as one amount.

10. *If information previously filed.* If all of the information called for by this form has been furnished the Price Adjustment Agency to which the contractor has been assigned, this Standard Form of Contractor's Report can be completed by reference, stating specifically the place and date of filing. When certified by the appropriate Price Adjustment Agency that it has received such information, this report will be accepted by the War Contracts Price Adjustment Board as having complied with mandatory filing under the first sentence of subsection (c) (5) (A) of the 1943 Act.

[RR 701.4]

§ 1607.701–5 *Standard form of contractor's report (for agents, brokers and sales engineers).*

Refer to:
LPI ------

STANDARD FORM OF CONTRACTOR'S REPORT

(FOR AGENTS, BROKERS AND SALES ENGINEERS)

(To be filed in duplicate)

From: ----------

To: War Contracts Price Adjustment Board or the Joint Price Adjustment Board

I. Attached hereto are copies of our Federal Income Tax and Excess Profits Tax returns, financial statements or annual report to stockholders covering our latest completed fiscal year. (See Instruction No. 1.)

II. We estimate the total business during our latest completed fiscal year (ended ----------, 194----) consisted of the following: (See Instruction No. 2).

A. Subject to renegotiation.
Commissions and other income referable to sales made or services rendered directly or indirectly to Departments and other Agencies named in the Renegotiation Act_ $------

B. Not subject to renegotiation. (See Instruction No. 3):

1. Commissions and other income referable to sales made or services rendered directly or indirectly to Departments and other Agencies named in the Act, but exempt from renegotiation---------- ------

2. Commissions and other income referable to sales made neither directly nor indirectly to the Departments and other Agencies named in the Renegotiation Act--------- ------

3. Other business income, if any. (Explain sources and nature of such income.)---------- ------

C. Total business income for year_ ------

D. Our basis for estimate of nonrenegotiable income is explained below: (or on attached sheet).

III. On a separate sheet, with respect to each of the concerns represented by us is the following information pertinent to our latest fiscal year:

(a) Name and address of principal.

(b) Products handled or services rendered by us. (See Instruction No. 4.)

(c) Amounts paid or accrued to us.

IV. Condensed income data for prior years: (See Instruction No. 5.)

Year	Gross business income (1)	Business expenses (2)	Net income before taxes (3)	Federal taxes on income (4)
1943				
1942				
1941				
1940				
1939				
1938				
1937				
1936				

V. Salaries and other compensation including commissions, bonuses and other forms of extra compensation paid by us to our ten highest paid officers, salesmen and employees, who received therefrom in excess of $5,000.00 for our latest completed fiscal year, were as follows: (See Instruction No. 6.)

Name	Position	1943	1942	1941	1940
		$----	$----	$----	$----

(Exact name of agent or broker—not abbreviated)

By ----------
(Authorized corporation officer, partner or proprietor)

Date ----------

I, the undersigned ----------
(title of signer) certify that the representations and supporting data hereby submitted are true and in accordance with instructions furnished with this form to the best of my knowledge and belief, subject to such qualifications as are specifically set forth.

(Signature)

[RR 701.5]

§ 1607.701–6 *Instructions for preparation of standard form of contractor's report (for agents, brokers and sales engineers).*

INSTRUCTIONS FOR PREPARATION OF STANDARD FORM OF CONTRACTOR'S REPORT

(For Agents, Brokers, and Sales Engineers)

Be sure to use the correct form of report. Three separate Standard Forms of Contractor's Report have been prescribed by the War Contracts Price Adjustment Board, for the following types of business covered by the Renegotiation Act:

1. Persons principally engaged in manufacturing and general business other than (2) and (3) below. (Form entitled "Standard Form of Contractor's Report.")

2. Persons principally engaged on construction projects, including those operating under architect-engineer contracts. (Form entitled "Standard Form of Contractor's Report (For Construction contractors, architects, and Engineers).")

3. Brokers, sales agents, etc., as defined in subsection (a) (5) of the Renegotiation Act. (Form entitled "Standard Form of Contractor's Report (For Agents, Brokers, and Sales Engineers).")

Filing of the appropriate "Standard Form of Contractor's Report" in satisfactory form is required to comply with the statutory filing provision in subsection (c) (5) (A) of the 1943 Renegotiation Act. If the attached is not the appropriate form, copies of the proper form can be obtained by writing to War Contracts Price Adjustment Board, Assignments and Statistics Branch, Renegotiation Division, Room 3D 573, The Pentagon, Washington 25, D. C., or the office from which this document was received.

1. If a financial statement or stockholders' report has not already been prepared, it need not be especially prepared for this purpose.

2. *Contracts and subcontracts within the scope of the Act.* Subject to certain specific exemptions, the Renegotiation Act applies to contracts involving articles or services acquired by, or having an end-use with the War Department, the Navy Department, the Treasury Department, the Maritime Commission, War Shipping Administration, and the following subsidiaries of the Reconstruction Finance Corporation: Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company. Lend-Lease contracts negotiated with the above Agencies are also included.

The income of agents, manufacturers' representatives and sales engineers is subject to renegotiation if derived from a "subcontract", as the term is defined in subsection (a) (5) of the Act.

Subsection (a) (5) defines as a "subcontract" any contract or arrangement (other than a contract or arrangement between two contracting parties, one of which parties is found to be a bona fide executive officer, partner or fulltime employee of the other contracting party), (a) any amount payable under which is contingent upon the procurement of a contract with a Department, or a subcontract thereunder, or determined with reference to such a contract or subcontract, or (b) under which any part of the services performed or to be performed consists of the soliciting, attempting to procure, or procuring a contract with a Department, or a subcontract thereunder.

Subsection (a) (5) of the Act also defines a subcontract as "—any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of any other contract or subcontract—"

In general, the Act covers not only sales and engineering services rendered in connection with the sale of an end product purchased by one of the agencies covered by the Act, and any article incorporated therein, but also the sale or installation of machinery, equipment or materials used in processing an end product.

3. *Segregation of renegotiable and nonrenegotiable income.* Although the Act prescribes the type of contract subject to renegotiation, as a matter of practice, it is often difficult to trace the source of a contractor's income with exactness, especially

when the ultimate Departmental end-use results from a remote subcontract.

No single method of determining a proper segregation can be prescribed. Any method of segregation adapted to produce a reasonably accurate result may be used.

Any of your income referable to sales made in your name as contractor to the Government, or made directly by your principal to the Government, should be included as income derived from prime contracts (direct business). Income referable to other sales under Government subcontracts (indirect business) is also renegotiable, and should be included as such. Income referable to all other types of sales is non-renegotiable, and should be so stated. State in each case the rate of commission or other basis on which income in each of these classes was calculated. If several rates prevailed, state all of them, and show the volume of sales affected by each rate.

Whenever the end-use of the articles with respect to which the services were rendered is known or can be determined with reasonable effort, a specific segregation of individual sales should be made and compensation referable to such articles as are found to have a Departmental end-use should be included under income "Subject to Renegotiation."

In many instances, the number of separate sales or contracts will be so large that it will be impracticable to consider each one separately, and some arbitrary method of segregation of income must be used. Ordinarily this will also be true where the contractor's services are rendered in connection with articles initially sold to wholesalers, jobbers, or others engaged in both war and commercial business.

In such cases, it may be necessary to classify sales and contracts by principal, customer or customer group, end-use classification of articles as shown on War Production Board reports, or some other suitable classification. Segregation may then be made, depending on,

(a) The proportionate part of the business of the principal or principals represented which is found to have a Departmental end-use, or

(b) The proportionate part of the customer business found to have a Departmental end-use, or

(c) A percentage developed by spot check of the end-use of the articles during a given period.

4. *Principals represented and products handled.* Under Section III (b), merely indicate the nature of the chief products handled for each principal and the type of services rendered (e. g., sales and solicitation, sales engineering, factoring, expediting, servicing). If any income was derived from a factoring service, describe the nature of the service and the rates charged.

5. *Condensed income data for prior years.* Depending upon whether your books for the respective period were kept on a cash or accrual basis, report either income received or income accrued during each period. This data should be in agreement with Federal tax returns.

6. *Salaries and other compensation paid.* The names of officers, salesmen and employees who, during the latest completed fiscal year received from the contractor, aggregate payments in excess of $5,000 should be listed, together with the positions held, and the amounts paid each in 1943, 1942, 1941 and 1940. If more than ten (10) persons have received over $5,000, list the ten (10) who have received the largest amounts during the latest completed fiscal year.

7. *If information previously filed.* If all of the information called for by this form has been furnished the Price Adjustment agency to which the contractor has been assigned, this Standard Form of Contractor's Report can be completed by reference, stating specifically the place and date of filing. When certified by the appropriate Price Adjustment agency that it has received such information, this report will be accepted by the War Contracts Price Adjustment Board as having complied with mandatory filing under the first sentence of subsection (c) (5) (A) of the 1943 Act.

[RR 701.6]

§ 1607.702 *Letters of preliminary inquiry.* [RR 702]

§1607.702–1 *Letter of preliminary inquiry (for use by assignments and statistics branch).*

In reply refer to:
LPI No. ____

WAR CONTRACTS PRICE ADJUSTMENT BOARD
JOINT PRICE ADJUSTMENT BOARD
Room 3D 573, The Pentagon
Washington 25, D. C.

GENTLEMEN: Price Adjustment Boards and Sections have been established for the conduct of statutory proceedings for the renegotiation of contracts and subcontracts. Renegotiation with respect to contractors whose fiscal years ended on or before June 30, 1943, is controlled by the Renegotiation Act of 1942 as amended by the retroactive provisions of the Renegotiation Act of 1943. Renegotiation with respect to fiscal years ended after June 30, 1943, is controlled by the Renegotiation Act of 1943. Copies of both Acts are enclosed herewith.

Unless the amount of your business during your latest complete fiscal year was less than the statutory minimum as defined by subsection (c) (6) of the Act applicable to your business for that year, you are required by law to furnish to the undersigned the information called for by the "Standard Form of Contractor's Report." On the basis of information thus presented a determination will be made as to whether or not renegotiation proceedings will be commenced.

To assist you in determining whether or not your business exceeded the statutory minimum as defined in the statutes referred to, your attention is invited to the "Instructions for Preparation of Standard Form of Contractor's Report", which accompany this communication.

The enclosed "Standard Form of Contractor's Report" is requested pursuant to the statutory power to obtain information deemed necessary under the Act. Your filing of this "Standard Form of Contractor's Report" in satisfactory form will be deemed a compliance with the statutory provision requiring the filing by contractors and subcontractors of a financial statement under the first sentence of subsection (c) (5) (A) of the 1943 Act if filed within the time prescribed in such Act.

The "Standard Form of Contractor's Report" is to be filed, in duplicate, within thirty days of the date of this letter. It is to be sent to the undersigned, Room 3D 573, The Pentagon, Washington 25, D. C. If your concern reports on a fiscal year basis for federal income tax purposes, the Report prepared should cover the same period.

A separate letter or statement, in duplicate, containing any comments which you believe pertinent with respect to statutory renegotiation as it affects you will be appreciated.

Clearance and Assignment Officer on behalf of:

WAR CONTRACTS PRICE ADJUSTMENT BOARD,
JOINT PRICE ADJUSTMENT BOARD.

Enclosures:
Standard Form of Contractor's Report (3).
Instructions for Preparation of Standard Form of Contractor's Report.
Pamphlet containing Renegotiation Act of 1942 and 1943.

[RR 702.1]

§ 1607.702–2 *Letter of preliminary inquiry (for use in assigned cases).*

(For use in cases already assigned)

In reply refer to:
LPI–A No. ____

(LETTERHEAD OF APPROPRIATE DEPARTMENT OR SECTION)

GENTLEMEN: Price Adjustment Boards and Sections have been established for the conduct of statutory proceedings for the renegotiation of contracts and subcontracts. Renegotiation with respect to contractors whose fiscal years ended on or before June 30, 1943 is controlled by the Renegotiation Act of 1942 as amended by the retroactive provisions of the Renegotiation Act of 1943. Renegotiation with respect to fiscal years ended after June 30, 1943 is controlled by the Renegotiation Act of 1943. Copies of both Acts are enclosed herewith.

The matter of conducting your statutory renegotiation proceedings has been assigned to this office.

Unless the amount of your business during your latest complete fiscal year was less than the statutory minimum as defined by subsection (c) (6) of the Act applicable to your business for that year, you are required by law to furnish the information called for by the "Standard Form of Contractor's Report." On the basis of the information thus presented, a determination will be made as to whether or not further renegotiation proceedings will be necessary.

To assist you in determining whether or not your business exceeded the statutory minimum as defined in the statutes referred to, your attention is invited to the "Instructions for Preparation of Standard Form of Contractor's Report" which accompany this communication.

The enclosed "Standard Form of Contractor's Report" is requested pursuant to the statutory power to obtain information deemed necessary under the Act. Your filing of this "Standard Form of Contractor's Report" in satisfactory form will be deemed a compliance with the statutory provision requiring the filing by contractors and subcontractors of a financial statement under the first sentence of subsection (c) (5) (A) of the 1943 Act, if filed within the time prescribed in such Act.

The "Standard Form of Contractor's Report" is to be filed with the undersigned, in duplicate, within thirty days of the date of this letter.[1] If your concern reports on a fiscal year basis for federal income tax purposes, the Report prepared should cover the same period.

If all of the information called for by this form has been furnished the Price Adjustment Agency to which the contractor has been assigned, refer to the final paragraph of instructions.

A separate letter or statement, in duplicate, containing any comments which you believe pertinent with respect to statutory renegotiation as it affects you will be appreciated.

(Appropriate Authorized Signature)

[1] Omit "within thirty days of the date of this letter" if this letter is being sent within thirty days of the time for filing prescribed by the 1943 Act.

Enclosures:
Standard Form of Contractor's Report (3).
Instructions for Preparation of Standard Form of Contractor's Report.
Pamphlet containing Renegotiation Act of 1942 and 1943.

[RR 702.2]

§ 1607.702–3 *Alternative form of letter of preliminary inquiry.*

WAR CONTRACTS PRICE ADJUSTMENT BOARD

3D 573—The Pentagon

Washington 25, D. C.

GENTLEMEN: Subsection (c) (5) (A) of the Renegotiation Act of 1943 requires concerns which are subject to that Act to file financial statements in accordance with the regulations prescribed by the War Contracts Price Adjustment Board. A penalty is prescribed for non-compliance. Copies of the Act and pertinent Regulations are enclosed herewith as well as the required form of Report.

The records of this office do not indicate that you have filed such a financial statement. Although without authority to waive or extend the requirements of the Act with respect to time of filing, we bring this matter to your attention with the suggestion that, if your business exceeded the statutory minimum as defined in subsection (c) (6) of the Act, you should file the required financial statement with the least possible delay.

Clearance and Assignment Officer on behalf of
WAR CONTRACTS PRICE ADJUSTMENT BOARD.

Enclosures:
Standard Form of Contractor's Report.
Pamphlet entitled "Renegotiation."
Excerpts from Renegotiation Regulations pertaining to filing of Mandatory Financial Statements.

[RR 702.3]

§ 1607.702–4 *Follow-up to letter of preliminary inquiry from assignments and statistics branch.*

In reply refer to:
LPI No. ____

WAR CONTRACTS PRICE ADJUSTMENT BOARD

3D 573—The Pentagon

Washington 25, D. C.

GENTLEMEN: We attach a copy of a communication sent to you under date of _____ by which we requested that you file with this office the "Standard Form of Contractor's Report" which was enclosed therewith. We have no record of your having filed such a Report nor of the receipt of a statement from you that the Renegotiation Act of 1943 is not applicable in your case.

Your attention is called to the fact that by the provisions of subsection (c) (5) (A) of the Act, the "Standard Form of Contractor's Report" is required to be filed by all concerns subject to that Act. A penalty is prescribed for noncompliance.

Although without authority to waive or extend the requirements of the Act with respect to the time for filing of Reports, we suggest that, if your business exceeded the statutory minimum as defined in subsection (c) (6) of the Act, you should file the Report with the least possible delay.

On the other hand, if your business did not exceed the statutory minimum as defined in subsection (c) (6) of the Act, you are not required to file the "Standard Form of Contractor's Report" to which we refer. In that event, it would be helpful for the maintenance of our records if you would file, in duplicate, the enclosed form entitled "Statement by Contractor, Non-Applicability of the Renegotiation Act of 1943".

Clearance and Assignment Officer on behalf of

WAR CONTRACTS PRICE ADJUSTMENT BOARD.

Enclosures:
(Budget Bureau No. 49–R182) (LPI Letter).
Standard Form of Contractor's Report.
Pamphlet entitled "Renegotiation."
Excerpts from Renegotiation Regulations pertaining to filing of Mandatory Financial Statements.
Statement by Contractor, Non-Applicability of the Renegotiation Act of 1943.

[RR 702.4]

§ 1607.703 *Assignment forms.* [RR 703].

§ 1607.703–1 *Form No. 101 (suggestion for assignment).*

SUGGESTION FOR ASSIGNMENT

(To be submitted in triplicate)

_____
Date

To: Assignments and Statistics Branch,
War Contracts Price Adjustment Board,
Room 3D 573, The Pentagon,
Washington 25, D. C.

Subject: _____
Name of Contractor

_____
Street Address City and State

1. The concern named above is suggested for assignment for renegotiation.
2. It is recommended that—

☐ A letter of preliminary inquiry be sent by your office prior to assignment.
☐ Assignment be issued to _____ without sending of a letter of preliminary inquiry.

3. Information regarding the subject concern (if available):
Subsidiary or affiliate of_____
Parent of_____
Principal product_____
Department or Service believed to have predominant interest in contracts_____
_____
Extent of known contracts with this Department or Service_____
Fiscal year ends_____
Remarks:

PRICE ADJUSTMENT BOARD (SECTION)

1st Ind.

To: Price Adjustment Board (Section)

☐ Assignment of the above contractor is hereby issued to_____ as number_____
☐ Assignment withheld—reason:

For the Director of the Renegotiation Division:
Chief, Assignments and Statistics Branch

SPRAE—101
1/15/44 24–6692–35

[RR 703.1]

§ 1607.703–2 *Form No. 102 (assignment notice).*

SPRAE

1943 ASSIGNMENT NOTICE

_____
Date

To:

Subject: _____
Name of Contractor

_____ _____
Street Address City and State

1. The above contractor is hereby assigned to your Board or Section for 1943 statutory renegotiation as No. _____ –43.
2. It was identified through

☐ Suggestion by _____
☐ Filing of mandatory financial statement _____
☐

3. Its corporate relations are believed to be
☐ Parent of _____
☐ Subsidiary of _____
☐ Affiliated with _____

4. A letter of preliminary inquiry (was) (was not) sent by this office.
5. Fiscal year ends _____
6. Remarks:

For the War Contracts Price Adjustment Board:
Chief, Assignments and Statistics Branch.

SPRAE–102
1/2/44

[RR 703.2]

§ 1607.703–3 *Form No. 103 (suggestion for reassignment).*

To Be Submitted in Quadruplicate

To: Assignments and Statistics Branch,
War Contracts Price Adjustment Board,
Room 3D 573, The Pentagon,
Washington, D. C.

Subject:

1. The above contractor has been assigned to this office for renegotiation of its 1943 fiscal year. Reassignment is suggested for the following reason(s):
☐ Principal war product_____
☐ Substantial predominance of interest in contracts held by_____
☐

2. The above contractor (has) (has not) been consulted with respect to proposed reassignment and (has) (has not) indicated approval.
3. The file for the fiscal year under review is available at_____

PRICE ADJUSTMENT BOARD (SECTION)

1st Ind.

To: Price Adjustment Board (Section):

☐ The above contractor is hereby reassigned to_____
☐ It is deemed inappropriate to reassign the above contractor.

For the Director of the Renegotiation Division:
Chief, Assignments and Statistics Branch

24–64951

[RR 703.3]

§ 1607.704 *Forms for cancellation of assignment.* [RR 704]

§ 1607.704–1 *Statement by contractor of non-applicability.*

STATEMENT BY CONTRACTOR

Non-Applicability of the Renegotiation Act of 1943

To the War Contracts Price Adjustment Board:

We acknowledge receipt of a copy of the pamphlet entitled "Renegotiation" containing the text of the Renegotiation Act of 1943 and have noted particularly the provisions of subsections (a) (5), (c) (5) (A) and (c) (6) of that Act.

We certify that the aggregate receipts or accruals of the undersigned and of all persons, firms or corporations under the control of or controlling or under common control with the undersigned under contracts with the War Department, Navy Department, Treasury Department, Maritime Commission, War Shipping Administration, Defense Plant Corporation, Defense Supplies Corporation, Metals Reserve Company and Rubber Reserve Company and under subcontracts as defined

in the Act, including those which are exempted under subsection (i) of the Act or which expressly provide that they are not subject to renegotiation pursuant to the authority granted by said subsection (i) (but not including commissions and other income within the meaning of subsection (a) (5) (B) of the Act), did not exceed $500,000 for the fiscal year ended_____ 194___; and we further certify that commissions and other income within the meaning of subsection (a) (5) (B) of the Renegotiation Act of 1943 received or accrued by the undersigned and by all persons, firms or corporations under the control of or controlling or under common control with the undersigned under contracts and subcontracts above referred to did not exceed $25,000 for the same fiscal year.

In making this certification recognition is given to the fact that in order to qualify for exemption it is necessary that both of the above conditions should be met; i. e., that the total of receipts or accruals under contracts with the above-named Departments or agencies and subcontracts as defined in the Act (excluding commissions and other income below mentioned) does not exceed $500,000 and that the total of commissions and other income within the meaning of subsection (a) (5) (B) of the Act does not exceed $25,000. Accordingly, we do not intend to file a financial statement in conformity with the provisions of the first sentence of subsection (c) (5) (A) of the Act. If we have been assigned for statutory renegotiation, we request that such assignment be cancelled.

Very truly yours,

_____
Name of Contractor

By_____
(Principal officer, partner or proprietor)

_____
Title of officer

_____
Address of Contractor

Dated _____ 194____

In preparing this form, there will be printed on reverse side, subsections (c) (5) (A), (c) (6) and (a) (5) of the 1943 Act.

[RR 704.1]

§ 1607.704–2 *Notice to contractor of cancellation of assignment.*

NOTICE TO CONTRACTOR OF CANCELLATION OF ASSIGNMENT

Date_____

Contractor's Name_____

Address_____

Dear Sir: Upon review of the information submitted by you in connection with renegotiation under the Renegotiation Act, as amended, this office recommended to the War Contracts Price Adjustment Board that your assignment to this office for renegotiation be cancelled for your fiscal year ending_____.

This office is advised that such assignment has been cancelled in accordance with its recommendation.

While such cancellation does not operate as a release of liability under the Renegotiation Statute, nevertheless, in the absence of further developments no further action is contemplated.

Very truly yours,
(Name of Renegotiating Department or Service)

[RR 704.2]

§ 1607.704–3 *Request by renegotiating agency for cancellation.* See § 1602.206–2. [RR 704.3]

§ 1607.705 *Transmittal forms to and from departments.* [RR 705]

§ 1607.705–1 *Form No. SPRA I–1 (assignment transmittal to departments).*

WDPAB Transmittal Report No. _____ SPRA I–1 Assignment Transmittal

From: Assignments and Statistics Branch WDPAB—Statistics & Progress Section.

To: _____ _____
(Department or Service) (Date)

The following 1943 Assignments are transmitted to you as indicated below:

1943 Assignment No.	Name
Previous total delivered by WDPAB	

Cumulative total gross assignments delivered to date

(Submit in Duplicate)

[RR 705.1]

§ 1607.705–2 *Form No. SPRA I–2a5d1 (reassignment request; cancellation request).*

SPRA I–2a5d1
Reassignment Request or
Cancellation Request

Service Transmittal Report No. _____

From: _____ _____
(Department or Service) (Date)

To: Assignments and Statistics Branch WDPAB—Statistics & Progress Section.

The following 1943 Assignments are returned to you for reassignment or cancellation as indicated below:

(Do not combine. Transmit each type separately)

1943 Assignment No.	Name	Reassignments requested	Cancellations requested
Previous total requested			

Cumulative total to date

(Submit in duplicate)

Rev 3/24/44

[RR 705.2]

§ 1607.705–3 *Form No. SPRA I–2ax5d1x (disapproved reassignments; disapproved cancellations).*

SPRA I–2ax5d1x
Disapproved Reassignments or
Disapproved Cancellations

WDPAB Transmittal Report No. _____

From: Assignments and Statistics Branch WDPAB—Statistics & Progress Section

To: _____ _____
(Department or Service) (Date)

We are returning the following 1943 assignments for which reassignment or cancellation has been disapproved as indicated below:

(Do not combine. Transmit each type separately.)

1943 Assignment No.	Name	(2a) Disapproved reassignments	(5d1) Disapproved cancellation
Previous total disapproved to Service:			

Cumulative total to date_____
(Submit in duplicate.)

Rev 3/24/44

[RR 705.3]

§ 1607.705–4 *Form No. SPRA I–2b5d2 (approved reassignment; approved cancellation).*

SPRA I–2b5d2
Approved Reassignment or
Approved Cancellation

WDPAB Transmittal Report No. _____

From: Assignments and Statistics Branch WDPAB—Statistics & Progress Section

To: _____ _____
(Department or Service) (Date)

The reassignment or cancellation of the following 1943 assignments is approved as indicated below:

(Do not combine. Transmit each type separately)

1943 Assignment No.	Name	(2b) Approved reassignments	(5d2) Approved cancellations
Previous total confirmed to Service			
Cumulative total to date			

(Submit in duplicate)

Rev 3/24/44

[RR 705.4]

§ 1607.705–5 *Form No. SPRA I–5a (Completed Settlements)*

SPRA I–5a Completed Settlements
Department Transmittal Report No. ------
From: ---------- ----------
(Department) (Date)
To: Assignments and Statistics Branch
WDPAB—Statistics & Progress Section

Following is a report on Completed Settlements for the War Contracts Price Adjustment Board as evidenced by the attached Tabulation Forms SPRAE–8 covering each Settlement:

1943 Assignment No.	Name	Tabulation forms SPRAE–8 attached

Reconciliation

Previous Completed Settlements data delivered to WDPAB --------
Plus—Above Settlements---------- --------
Cumulative Total, Completed Settlements data in hands of WDPAB

(Submit in duplicate)

[RR 705.5]

§ 1607.705–6 *Form No. SPRA I–5b (impasse unilateral determination; department transmittal report)*

SPRA I–5b Impasse Unilateral Determination
Department Transmittal Report No------
From:---------- ----------
(Department) (Date)
To: Assignments and Statistics Branch
WDPAB—Statistics & Progress Section

Following is a report on Impasse Cases that have resulted in *final* Unilateral Determinations for the War Contracts Price Adjustment Board as evidenced by attached Tabulation Forms SPRAE–8 covering each case:

1943 Assignment No.	Name	Tabulation forms SPRAE–8 attached

Reconciliation

Previous Impasse Unilateral data delivered to WDPAB---------- --------
Plus—Above---------- --------
Cumulative Total—Impasse Unilateral Determination data in hands of WDPAB

(Submit in duplicate)

[RR 705.6]

§ 1607.705–7 *Form No. SPRA I–5c (completed clearances; department transmittal report).*

SPRA I–5c Completed Clearances
Department Transmittal Report No. ------
From: ---------- ----------
(Department) (Date)
To: Assignments and Statistics Branch
WDPAB—Statistics & Progress Section

Following is a report on Completed Clearances for the War Contracts Price Adjustment Board as evidenced by attached Tabulation Forms SPRAE–8 covering each clearance:

1943 Assignment Number	Name	Tabulated Forms SPRAE–8 Attached

Reconciliation

Previous Completed Clearances data delivered to WDPAB----------
Plus—Above ----------
Cumulative Total—Completed Clearances in hands of WDPAB

(Submit in duplicate)

[RR 705.7]

§ 1607.705–8 *Form No. SPRAE–8 (identification, tabulation form).*

TABULATION FORM

	Identification (All Cards)
1. Assignment number	( ) ( ) ( ) ( ) ( )
2. Corporation, partnership, or owner (C, P, or O)	( )
3. Assignment and location	( ) ( ) ( )
4. Based on approved or final figures (A or F)	( )
5. Fiscal year ends, month	( ) ( )
6. Fiscal year ends, year	( )

Card No. 0

A. Fixed price net sales (before adjustment)	------
B. Fixed price basic profit before taxes (before adjustment)	------ Fields C-D-E-F
G. % Basic profit on fixed price sales (before adjustment)	------

Card No. 1

7. Fixed price net sales (after adjustment)	------
8. Fixed price basic profit before taxes (after adjustment)	------
9. Amount recovered	------
10. CPFF net sales (after adjustment)	------
11. CPFF basic profit before taxes (after adjustment)	------
12. CPFF amount recovered	------
13. % Basic profit on fixed price sales (after adjustment)	------
14. % CPFF basic profit before taxes (after adjustment)	------

Card No. 2

15. Non-renegotiable net sales	------
16. Non-renegotiable basic profit (before taxes)	------
17. Total business (except CPFF) net sales after adjustment	------
18. Total business (except CPFF) basic profit before taxes after adj	------
19. Net profit after Federal income taxes (including EPT credit)	------ Field 20
21. % Basic profit (before taxes) on non-renegotiable sales	------
22. % Basic profit before taxes on total business after adj. (exc. CPFF)	------
23. % Profit on net worth	------

Card No. 3

24. 1st prior year total net sales	------
25. 1st prior year basic profit before taxes	------
26. 2nd prior year total net sales	------
27. 2nd prior year basic profit before taxes	------
28. Total business 1936–39 average net sales	------
29. Total business 1936–39 average basic profit before taxes	------
30. 1st prior year % basic profit before taxes	------
31. 2nd prior year % basic profit before taxes	------
32. % Basic profit on sales 1936–39 average (before taxes)	------

Card No. 4

33. Govt. fac. fix price	------
34. Govt. fac. CPFF	------
35. Govt. fac. advances	------
36. Cert. of necessity	------
37. V loans	------
38. Net plant	------

Card No. 5

39. 2nd prior year number persons	------
40. Compensation 2nd prior year	------
41. 1st prior year number persons	------
42. Compensation 1st prior year	------
43. Current year number persons	------
44. Compensation current year	------

Card No. 6

Product	State	City

(Do Not Write In This Space)

Principal functions of contractor

Products (in order of importance)

1. ---
2. ---
3. ---

Card No. 7

Company Name

Card No. 8

City and State

Assignment No. & Name of All Subsidiaries Included in Agreement:

SPRAE–8
7–3–44

(Use reverse side for additional subsidiaries)

25–6012–2M

[RR 705.8]

§ 1607.705–9 *Instructions for preparation of identification, tabulation form (SPRAE–8).*

INSTRUCTIONS FOR PREPARING TABULATION FORM SPRAE–8

Items

1. Insert PAB Assignment Number
2 Insert "C" "P" or "O"
3. Leave Blank
4. Insert "A" or "F"
5. Show month of fiscal year by numeral (If for period more or less than a year, show total of months involved)
6. Show year by last numeral (Note exception in Item 5. Cases other than for a year, will show the year involved (based on last month renegotiated) outside and directly below space on form)
9. (A) Amount Recovered, where applicable, to be Net Recovery after adjustment for State Income Taxes
   (B) Amount Recovered, via Unilateral Determination, will be marked by inserting X to the right of figures

33–35. Indicate only Net Balance of Facilities and Advances outstanding at the time of renegotiation

36. Show Certificates of Necessity obtained only
37. Show amounts in use of V Loans and V–T Loans

39–44. Main Compensation only. (Disallowances actual, to be marked on right of figures by X (Do not show amount disallowed) Indicate Disallowances by symbol for all years. Show Corporate Compensation only)

Card 6. Leave Blank

Card 7. Limit or abbreviate company name to 24 letters (including spaces). Insert surname of contractor first, viz., DOE JOHN J. & CO.

Card 8. Limit as in Card 7.

NOTE: Names of subsidiaries limited to 23 letters (including spaces)

GENERAL

A. Omit 000 for all dollar amounts and adjust figures to nearest thousand

B. All percentage figures must be calculated to 1/10 (one-tenth) of 1%, i. e., 14.1, 13.3, 15.0

C. All deficit figures to be marked (on right) by X

D. At bottom of page, describe function, main product, material used

[RR 705.9]

§ 1607.706 *Transmittal forms to and from services.* [RR 706]

§ 1607.706–1 *Form No. SPRA I–1 (assignment transmittal to services)* (This form is set out in § 1607.705–1). [RR 706.1]

§ 1607.706–2 *Form No. SPRA I–2a5d1 (reassignment request; cancellation request).* (This form is set out in § 1607.705–2). [RR 706.2]

§ 1607.706–3 *Form No. SPRA I–5ax2d1x (disapproved reassignments; disapproved cancellations).* (This form is set out in § 1607.705–3). [RR 706.3]

§ 1607.706–4 *Form No. SPRA I–2b5d2 (approved reassignment; approved cancellation).* (This form is set out in § 1607.705–4). [RR 706.4]

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§ 1607.706–5 *Form No. SPRA I–5abc (completed settlements; impasses; completed clearances)*

SPRA I–5abc { Completed Settlement or Service Transmittal Report No.------ / Impasse or / Completed Clearances

From: ---------- (Service) ---------- (Date)

To: Assignments and Statistics Branch WDPAB—Statistics & Progress Section

The following Completed Settlements, Impasses or Clearances are delivered to you for necessary action as indicated below:

(Do not combine. Transmit each type of required action separately)

1943 Assignment Number	Name [1]	Required action by WDPAB: Settlements (5a–1) Review	Settlements (5a–2) Approval	(5b) Impasse	Clearances (5c–1) Review	Clearances (5c–2) Approval
Previous total delivered to WDPAB						
Cumulative total to date						

(Submit in duplicate)

Rev 3/24/44

[RR 706.5]

§ 1607.706–6 *Form No. SPRA I–5abcx (returned settlements, impasses or clearances).*

SPRA I–5abcx { Returned Settlement / Returned Impasse / Returned Clearance } WDPAB Transmittal Report No. ------

From: Assignments and Statistics Branch WDPAB—Statistics & Progress Section

To: ---------- (Service) ---------- (Date)

The following Settlements, Impasses or Clearances are returned to you for further action as indicated by Memorandum attached to each return:

(Do not combine. Transmit each type of item separately)

1943 Assignment Number	Name [1]	Action of WDPAB previously requested: Settlements (5a–1) Review	Settlements (5a–2) Approval	(5b) Impasse	Clearances (5c–1) Review	Clearances (5c–2) Approval
Previous total returned by WDPAB						
Cumulative total returns to date						

(Submit in duplicate)

Rev 3/24/44

[RR 706.6]

[1] List parent company and indent under it all subsidiaries and/or affiliates included in the agreement whether or not previously assigned to your Service by WDPAB. Request for Assignment Form No. 101 should be attached for each unassigned subsidiary or affiliate contained in the agreement.

Each Settlement for Review—Should be accompanied by SPRAS 138
Each Settlement for Approval—Should be accompanied by SPRAS 119
Each Clearance for Review—Should be accompanied by SPRAS 138
Each Clearance for Approval—Should be accompanied by SPRAS 119A

SUBPART B—FORMS RELATING TO OPERATION OF RENEGOTIATION

§ 1607.721 *Notice of commencement of renegotiation proceeding.*

(Assignee Department or Service)

Date _____

_____

_____

_____

GENTLEMEN: The War Contracts Price Adjustment Board has determined that renegotiation proceedings under the Renegotiation Act (Title VII of the Revenue Act of 1943) for your fiscal year ended_____ shall be conducted initially by this office.

A conference with you with respect to this matter is hereby set for_____ at _____. If that time is not convenient, kindly advise us promptly in order that a continuance may be arranged.

This notice, sent by registered mail, constitutes commencement of the renegotiation proceedings in conformity with the provisions of subsection (c) (1) of the Renegotiation Act.

Very truly yours,

[RR 721]

§ 1607.722 *Contractor's information and work sheet for renegotiation.*

CONTRACTOR'S INFORMATION AND WORK SHEET FOR RENEGOTIATION

NOTE: Construction contractors, architects, engineers, agents and brokers should not use this form, but should obtain the forms designed for their specific use by writing to:

_____

Name

_____ _____

Address City and State

Information indicated in Sections A to K, inclusive, and the Exhibits attached thereto, is required for renegotiation under the Renegotiation Act, as amended. Any part of this information which the contractor has submitted, either in the "Standard Form of Contractor's Report" or in connection with a previous renegotiation, may be omitted, provided reference is made to the manner, time and place of its submission. If any statements or information designated are inapplicable in a particular case, the contractor should so state and give the reason therefor. If the preparation of the data specified would impose an unreasonable burden or expense, the contractor may supply such information as is available in his regularly prepared financial and operating reports, provided he explains the reason for the substitution. In financial statements all cents may be omitted. The contractor should so indicate if he prefers to discuss with the renegotiation authorities the methods of segregation of sales and allocation of costs and expenses (Section E). In such case, the contractor should submit the Contractor's Information and Work Sheet for Renegotiation, completed in all other respects.

At the end of each section are specific instructions or comments pertinent thereto.

The contractor should certify that all information and data (subject to qualifications, if any, specifically set forth) are true and correct to the best of his knowledge and belief.

SECTION A

One copy each of the following for the year under review:

1. Published annual report.
2. Detailed or long form audit report.
3. Federal income and excess profit tax returns filed.
4. Latest brochure, catalog or other material setting forth the company's business and products.
5. Form 10-k (or 1-MD) if such is filed with Securities and Exchange Commission.

Instructions. If annual reports to stockholders or audit reports by independent public accountants are not prepared, the contractor should so state and in lieu thereof, furnish financial statements, consisting of (a) a balance sheet as of the close of the year under review and (b) a statement of income and surplus for such year. Those statements must be in reasonable detail. The balance sheet must show, in addition to the usual analysis of current assets and current liabilities, the gross plant account and related allowance for depreciation and amortization and all major reserves stated as separate amounts. The income statement must show sales, an analysis of cost of sales, and a classified list of expenses and miscellaneous items. It is essential that a reconciliation between income per books and income for Federal Tax purposes be provided.

SECTION B

1. A statement showing the names and addresses of the contractor's parent, subsidiary and affiliated companies and organizations, with a brief description of the character of their business, the nature and extent of their affiliation, and an expression of the contractor's opinion as to whether or not, during the year under review, they had business subject to the Renegotiation Act.
2. A list of the companies and organizations which, in the opinion of the contractor, should be consolidated for purposes of renegotiation.
3. If the financial statements are submitted on a consolidated basis, similar financial statements for each major subsidiary included in such consolidation.

Instructions. The terms "affiliates" and "affiliated companies and organizations" mean all persons under the control of or controlling or under common control with the contractor. Indicate any changes during the year under review, in the form or control of his organization (including reorganizations, dissolutions, acquisitions and/or disposal of subsidiaries, etc.)

SECTION C

1. A statement showing Government assistance received, including:
   a. Approximate value of machinery loaned.
   b. Approximate value of plants provided.
   c. Approximate value of materials received.
   d. Loans under Regulation V of Federal Reserve Board.
   e. Approximate advances on contracts.
   f. Description and approximate amount of other financial assistance.
2. A statement showing the type and approximate cost of privately financed facilities for which Certificates of Necessity have been issued or for which applications were pending at the end of the year under review.
3. Character, cost and method of acquisition of any other major additions to plant and equipment during the year under review.

Instructions. Significant changes in any of the above during the year under review should be described. Detailed lists need not be prepared. It will be sufficient to show only classifications, such as buildings, machinery, etc. If the annual rate of amortization allowed under Certificates of Necessity varies from the standard annual rate of 20%, the reasons therefor should be fully explained.

SECTION D

Income statement of the contractor for the year under review, separated as to renegotiable and non-renegotiable business as defined under the Renegotiation Act, as amended.

Instructions. The attached Exhibits 1 and 1a are provided for the contractor's use in this connection. Should he submit in some other form his income data separated as between renegotiable and non-renegotiable business, Exhibits 1 and 1a should be used as guides, in order that proper consideration to the items thereon will be given.

Sales and cost of sales should be stated net of discounts and other pertinent allowances. Supporting schedules of items requiring further analysis should be provided.

For an interpretation of items entering into renegotiable and non-renegotiable business refer to Standard Form of Contractor's Report, Instructions 3 to 10, both inclusive.

Specific instructions relative to the preparation of Exhibits 1 and 1a are set forth on page —.

SECTION E

1. Description of the method followed in segregating renegotiable and non-renegotiable sales, as shown in Exhibits 1 and 1a.
2. Description of the method followed (direct labor hours, cost of goods sold, etc.) in allocating costs, expenses and other income and deductions applicable to renegotiable and non-renegotiable business, as shown in Exhibits 1 and 1a.
3. A statement or schedule with respect to each of the following:
   a. the effect of raw material exemptions and "excess inventory" calculations provided for in subsection (i) of the Act.
   b. the nature and approximate dollar amount of "free issue" materials (those provided without cost to the contractor by the Government or others).
   c. sales to subcontractors, of materials entering into repurchases from them.
   d. sales to and purchases from subsidiaries and affiliates, if not eliminated in a consolidated statement.
   e. interdepartmental sales not eliminated.
   f. any basic changes during the year under review in accounting methods, depreciation rates, and/or methods of inventory valuation.
   g. list of contracts and subcontracts (including identification number) subject to specific profit limitations other than cost-plus-fixed-fee contracts.
   h. volume of direct renegotiable sales to the subsidiaries of Reconstruction Finance Corporation, and the amount of profits therefrom. If profits on such sales are not segregated on the books, best estimate should be given.

Instructions. Adequate explanations are essential.

SECTION F

1. List for the year under review of the principal products sold or the principal services rendered and the approximate amount of sales, both in quantity and dollars, of each principal type of product (or group of products) included in renegotiable business, and the functions performed with respect to each of the above (such as manufacturing, assembling, distributing, etc.).
2. List of the approximate dollar unit prices of important products and services included in renegotiable business, together with any recent (1943 or later) unit price reductions; with identification of those resulting from specific prior renegotiation agreements.
3. List of the principal products prior to 1941.
4. List of the principal commercial products during the year under review.

Instructions. In the case of contractors making a large number of different products, only the principal product of each major type should be listed. The term "quantity" refers to the customarily used unit of measurement.

SECTION G

1. Statement of salaries and all other compensation (including commissions, bonuses, royalties and other forms of extra compensation) paid or accrued to the ten highest officers and employees, or to those who received in excess of $10,000 per annum (whichever is the lesser in number) for the year under review.

2. A brief description of any bonus, pension trust, or other employee compensation plans now in effect or contemplated, with comment as to how they are applicable to personnel listed under item 1 preceding, and showing the dates that such plans were adopted.

3. Statement of compensation (fees, commissions, etc.) paid or accrued to other individuals or organizations, for services aggregating $10,000 or more during the year under review.

Instructions. The statements of compensation should show for each individual or organization: name, title or relationship and total compensation. If any portion of the compensation to any of the individuals listed has been disallowed by the Bureau of Internal Revenue as a taxable deduction, in any year, the facts should be stated.

SECTION H

A statement of provisions for reserves (other than shown on line 18 of Exhibit 1) for inventory losses, post-war reserves or other contingencies (of a nature not allowed as a deduction for Federal income tax purposes) included in costs and expenses, except as specifically set forth.

Instructions. The statement should contain a list of the purposes of the provisions, and the amounts not deductible in computing net income for Federal taxes, but provided for various contingencies and which are not specifically set forth on Exhibits 1, 1a or related schedules. If the contractor made no such provisions, he should so state.

SECTION J

A statement relating to contracts terminated or settled during the year under review and in process of termination or settlement at its close.

Instructions. It is suggested that reasonably full information be furnished with regard to terminated contracts. This information should include: (a) an adequate description of the method of pricing work in process and finished goods inventories at the year end, with particular regard to the classes of overhead expenses included therein and the consistency of method with that used at the beginning of the year; (b) the total number and approximate dollar amount of contracts terminated and termination settlements closed during the year under review and terminations in process of settlement at its close, classified as to year in which terminated, prime and subcontracts, those with or without claims, and the interested Department and Service; (c) a brief description of the five largest contracts referred to in (b); (d) the total amount of the cost of terminated contracts for the year under review.

SECTION K

A statement relative to each of the following:

1. The latest taxable year examined by the Bureau of Internal Revenue and any significant changes made in taxable income or invested capital as a result of examinations made by the Bureau since January 1, 1942.

2. Any changes in excess profits tax credit claimed or to be claimed under Section 721 or 722 of the Internal Revenue Code.

3. List of states to which taxes (including franchise taxes) measured by income, and the amounts for the year under review.

4. If royalties in excess of $25,000 were paid or accrued during the year under review, the names of significant payees and amounts of payments. Similarly, if the company received royalties in excess of $25,000, the names of licensees and amounts paid by each.

5. A brief description of technical assistance received (such as use of patents owned by others; instruction in technical procedures; aid in accounting methods, etc.)

6. Any revaluation of assets or recapitalization during the year under review.

7. Stockholders owning over 10% of voting stock and stockholdings of officers and key executives.

8. The types of escalator clauses in contracts subject to renegotiation.

9. An estimate of the dollar value of production from government furnished facilities.

10. The basis of setting inter-company prices where affiliates or subsidiaries are not consolidated.

11. If a subcontractor, a list of major customers for renegotiable business and types of products or services furnished to them.

12. A list of principal subcontractors, including suppliers of significant raw materials and subassemblies, and nature and approximate dollar value of items or services (management, engineering, etc.) purchased from each, with comments as to handling, with reference to materials furnished, supervision, inspection and financing.

13. Average number of shifts run; approximate average number of employees; wage increases; labor relations insofar as they may affect costs.

14. Any other matters, with particular reference to those factors set forth in section (a) (4) (A) of the 1943 Act.

Instructions. Since each of the subjects, listed above requires development in some detail for purposes of renegotiation, in order that full value can be given to the contractor's contribution to the conduct of the war, the contractor should give careful consideration to the preparation of his statements relative thereto. While such statements may be amplified at a meeting with representatives of the War Contracts Price Adjustment Board, it is desirable that they be presented in writing before such meeting.

INSTRUCTIONS FOR PREPARATION OF EXHIBITS

Exhibit 1

Line 1. Enter as renegotiable business (Column A) the total amount of contractor's net billings on sales directly or indirectly to the War, Navy and Treasury Departments, Maritime Commission, War Shipping Administration, Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation and Rubber Reserve Company. All sales whether subject to OPA regulations, or obtained on competitive bids, or otherwise, should be included as renegotiable if they were under prime (i. e., direct) contracts and purchase orders with one of the above named Departments or Agencies, with the exception of exempted materials and articles. The term "sales", as noted herein, includes compensation for services rendered as well as for material provided. Sales under subcontracts of any tier, or purchase orders falling within the definition of "subcontracts" should likewise be included in renegotiable business. (See Section D)

Lines 2, 4, 5 and 8: In allocating costs and expenses between renegotiable and non-renegotiable business, the contractor's cost system, if adequate, should be employed. Otherwise, percentages or other formulae may have to be used, either on individual products or groups of products, or by departments, divisions, etc. Each major item of selling and general expenses should be allocated in accordance with the most equitable method in view of the particular situation. The types of items generally excluded from costs and expenses in renegotiation are:

a. Provision for reserves for contingencies.

b. Provision for reserves for post-war adjustments.

c. Life insurance premiums not deductible under the Internal Revenue Code.

d. Refundable bond deposits.

e. Discount or premiums on bonds retired.

f. Profit or loss on disposal of capital assets.

g. Provision for future inventory shrinkage.

h. Profit or loss on sale of investments.

i. Depreciation on appreciation of capital assets.

j. Accelerated depreciation, unless entered on company's books and claimed as a deduction for income tax purposes.

k. Any other expenditures which are clearly unwarranted in connection with war business.

l. As fines and penalties are considered to represent a reduction in sales, they are not includible in costs.

Lines 8b, 8c, 11b and 12b. Amounts representing non-operating expenses and income, which in the light of circumstances are wholly or partially applicable to renegotiable business, should be entered on lines 8b and 8c, respectively. Non-operating items not applicable to renegotiable business should be entered on lines 11b and 12b. Examples of these are profit and loss on disposal of fixed assets, adjustments applicable to prior years, interest and dividends received, write-off of intangibles, etc.

Line 11a. Enter on this line only the net fees applicable to cost-plus-fixed-fee contracts, and in the space for the Analysis of Cost-Plus-Fixed-Fee Contracts at the bottom of Exhibit 1, the pertinent costs and profit as indicated. These contracts are considered separately for renegotiation purposes. The contractor should also provide any further data in connection with such contracts that may be considered pertinent. The gross sales or billings under contracts of this nature should not be included in Net Sales (line 1).

Exhibit 1-a

Cost of sales (line 22, a to j, inclusive). If the contractor's cost system does not lend itself readily to the captions provided under this heading, the contractor may submit in lieu thereof a schedule prepared from his own classification of accounts. Where unit costs are compiled, an over-all approximation (expressed either in dollars or per cent) of the material, labor and overhead elements will be sufficient. While it is desired that columns A and B in the schedule of cost of sales be filled in, it is not required if the allocation would cause an undue amount of work on the part of the contractor, or if costs of sales are allocated in proportion to the dollar value of sales, but the reason for their omission should be stated.

Selling and advertising expenses (line 24, a to g, inclusive). If the contractor's accounts contain any significant amounts included under captions not listed, a separate schedule should be submitted. Salaries should include all forms of compensation paid to contractor's employees. Line 24d applies only to commissions paid to non-employees, such as brokers, manufacturers' agents, etc.

General and administrative expenses (line 25, a to g, inclusive). Four lines have been provided for the insertion of any relatively large items. Should the number of lines be considered insufficient, a separate schedule should be submitted, containing the classification customarily used by the contractor.

Other applicable deductions and income (line 26, a to f, inclusive). Significant items should be inserted in the spaces provided. Care should be taken that the allocation of each item between renegotiable and non-renegotiable business be properly made, as the nature of these items may be such that allocation should be made on a basis different from that used for other classes of expenses.

Depreciation (line 28, a to d, inclusive). The total amount of depreciation expense (including depletion) should be accumulated under this caption, regardless of the accounts to which it may be charged on the contractor's books.

Other charges (line 29, a, b). The total amount of amortization may be entered on line 29a. Any amortization in excess of the standard 20% rate should be explained. (See Section C.)

EXHIBIT 1

Name of contractor

Address of contractor

Income Statement for the fiscal year ended _____ 194__, separated as to renegotiable and non-renegotiable business as defined under the Renegotiation Act (cents omitted).

	Column A Renegotiable business	Column B Nonrenegotiable business	Column C Total business
1. Net sales (excluding sales or billings under cost-plus-fixed fee contracts)	$	$	$
2. Cost of sales			
3. Gross profit			
4. Selling and advertising expenses			
5. General and administrative expenses			
6. Operating profit			
7. Per cent margin (ratio line 6 to line 1)	%	%	%
8. Other applicable items:			
a. Interest paid or accrued			
b. Other applicable deductions			
c. Other applicable income			
9. Basic profit on fixed price business			
10. Per cent margin (ratio line 9 to line 1)	%	%	%
11. Other income:			
a. Net fees earned under CPFF contracts. (See detail below.)	xxxxxxxxx	xxxxxxxxx	
b. Other			
12. Other deductions:			
a. State taxes measured by income			
b. Other	xxxxxxxxx	xxxxxxxxx	
13. Net profit before provisions for Federal taxes on income and for extraordinary reserves	$	$	$
14. Provision for Federal taxes on income—gross			$
15. Post war refund of excess profits taxes (credit)			
16. Net profit before extraordinary reserve			
17. Per cent of net worth at start of period			%
18. Provision for extraordinary reserves			
19. Net income per books			$

Analysis of cost-plus-fixed-fee contracts:

a. Total incurred or accrued costs		$
b. Fees received or accrued		
c. Total of lines a. and b.		$
d. Non-reimbursable costs		
e. Net fees or profit (b. minus d.) per line 11a above		
f. Per cent margin (ratio of e. to c.)		%

EXHIBIT 1a
(Detail of exhibit 1)

	Column A	Column B	Column C
Analysis of sales:			
19. Prime contracts and purchase orders	$		
20. Subcontracts of any tier and purchase orders			
21. Total (per column A, line 1, exhibit 1)	$		
22. Cost of sales:			
a. Materials	$	$	$
b. Goods purchased for resale			
c. Direct labor			
d. Maintenance and repairs			
e. Rents			
f. Royalties			
g. Other, including depreciation			
h.			
i. Inventory variations			
j. Total (per column C, line 2, exhibit 1)	$	$	$
23. Approximate amount of work subcontracted, included in cost of sales	$		
24. Selling and advertising expenses:			
a. Salaries	$	$	$
b. Product advertising			
c. Institutional advertising			
d. Commissions paid to outsiders			

EXHIBIT 1a—Continued
(Detail of exhibit 1)

	Column A	Column B	Column C
24. Selling and advertising expenses—Continued.			
e. Branch office expenses			
f. Other, including depreciation			
g. Total (per line 4, exhibit 1)	$	$	$
25. General and administrative expenses:			
a. Officers' salaries	$	$	$
b. Other office salaries			
c.			
d.			
e.			
f.			
g. Total (per line 5, exhibit 1)	$	$	$
26. Other applicable deductions:			
a.	$	$	$
b.			
c.			
d.			
e.			
f. Total (per line 8b, exhibit 1)	$	$	$
27. Other applicable income:			
a.	$	$	$
b.			
c.			
d.			
e. Total (per line 8c, exhibit 1)	$	$	$
28. Depreciation included above:			
a. Normal	$	$	$
b. Accelerated			
c. On idle plant	$	$	$
d. Total depreciation			
29. Other charges included above:			
a. Amortization of emergency facilities	$	$	$
b. Total executive salaries	$	$	$

EXHIBIT 2

Name of contractor

Address of contractor

COMPARATIVE STATEMENT OF INCOME

This form and accompanying data are to be submitted only by contractors who have not been previously renegotiated.

Years ended_____

[In even thousands of dollars]

	19__	19__	19__	19__	19__	19__
1. Net sales (excluding sales or billings under cost-plus-fixed-fee contracts)	$	$	$	$	$	$
2. Cost of sales						
3. Gross profit						
4. Selling and advertising expenses						
5. General and administrative expenses						
6. Operating profit						
7. Percent margin (ratio of line 6 to line 1)	%	%	%	%	%	%
8. Other applicable items:						
a. Interest paid						
b. Other applicable deductions						
c. Other applicable income						
9. Basic profit on fixed price contracts						
10. Percent margin (ratio of line 9 to line 1)	%	%	%	%	%	%
11. Other income:						
a. Net fees earned under CPFF contracts						
b. Other						
12. Other deductions:						
a. State taxes measured by income						
b. Other						

EXHIBIT 2—COMPARATIVE STATEMENT OF INCOME—Continued

Years ended_____
[In even thousands of dollars]

	19..	19..	19..	19..	19..	19..
13. Net profit before provision for Federal taxes on income and extraordinary reserves						
14. Provision for Federal taxes on income—gross						
15. Post war refund of excess profits tax (credit)						
16. Net profit before extraordinary reserves						
17. Percent of net worth at start of period	____%	____%	____%	____%	____%	____%
18. Provisions for extraordinary reserves						
19. Net income per books	$____	$____	$____	$____	$____	$____

INSTRUCTIONS

1. This schedule is to be prepared for each of the seven years immediately prior to that under review.
2. Insofar as practicable, the amounts appearing under the various line captions should reflect items similar to those shown on Exhibit 1, so that true comparisons may be made.
3. If regular annual statements contain the information listed above, such statements may be submitted in lieu of this form.

See Reverse of Form for Supplemental Information Required

SUPPLEMENTAL INFORMATION

To be submitted only by contractors who have not been previously renegotiated

1. If a corporation, state in which incorporated and date of incorporation; if a partnership or proprietorship, date of inception.
2. A brief history of the business, at least since 1936.
3. Balance sheets, as at the close of each of the contractor's fiscal years ended in 1936 to 1942, inclusive, or at the close of each year for which income data are submitted.
4. Comparative statement of income for each of the contractor's fiscal years ended in 1936 to 1942, inclusive, or for such of those years as he was in business. (Exhibit 2)
5. A statement of cost of sales and selling and administrative expenses for the three latest prior years, similar in form to items 22 and 24 of Exhibit 1–a. (See Instructions for Exhibit 1–a.)
6. A statement of salaries and other compensation of officers and employees for the three latest prior years (similar to that in Section G–1).
7. Copy of Federal Income and Excess Profits Tax Return for the contractor's latest prior year, and a summary of any significant changes in taxable income since 1936, made as a result of examinations by the Bureau of Internal Revenue.
8. Explanation of any differences between the subsidiaries and affiliates, consolidated in Exhibit 2, and those which are consolidated in the financial statements for the current year.
9. A statement relative to each of the following:
   a. basic changes in accounting methods since 1936;
   b. revaluation of assets or recapitalization since 1936.

[RR 722]

§ 1607.723 *Contractor's requests for renegotiation on completed contract basis.*

To: _____
(Insert name of Price Adjustment Board or Section.)

1. _____
(Insert correct legal name of contractor indicate whether an individual partnership, joint venture or corporation.)
(hereinafter referred to as "the contractor") represents as follows:

(a) that the contractor has a fiscal year ended _____ (hereinafter referred to as "said fiscal year");

(b) that all of the contractor's construction contracts with a Department as that term is defined in the Renegotiation Act of 1943 and all of the contractor's construction subcontracts under a contract with such a Department which have been completed or terminated within said fiscal year are as follows:

Description and date	*Amount*
_____	_____
_____	_____
_____	_____

2. Pursuant to subsection (c) (1) of the Renegotiation Act, the contractor hereby requests that all of the construction contracts and subcontracts described in paragraph 1 (b) above be renegotiated as a group and that the powers of the War Contracts Price Adjustment Board be exercised with respect to such group.

3. If the foregoing request is approved, the contractor hereby agrees to the following terms and conditions:

(a) The Renegotiation Act, and all regulations and interpretations made thereunder, other than those dealing with the allowance of tax credits, will be applied in all respects to the construction contracts and subcontracts described in paragraph 1 (b) above and in determining profits derived therefrom, as though the contractor had kept (its) (his) books and had filed (its) (his) Federal income tax returns with respect to such contracts and subcontracts on a completed contract basis, including the application of the $500,000 exemption set forth in subsection (c) (6) of the Renegotiation Act and the application of the $500,000 "floor" as interpreted in § 1603.348–3 of the Renegotiation Regulations.

(b) With respect to any subsequent fiscal year, all of the contractor's construction contracts with a Department as that term is defined in the Renegotiation Act of 1943, and all construction subcontracts under a contract with such a Department, may at the option of the renegotiation agency be renegotiated as a group and the powers of the War Contracts Price Adjustment Board may at such option be exercised with respect to such group, and in any such renegotiation, the principles set forth in subparagraph 3 (a) above will be applied.

4. The undersigned agrees that this request, after having been delivered to the renegotiating agency, cannot be withdrawn without the written consent of the renegotiating agency.

In witness whereof, the undersigned has executed this request as of the ____ day of _____ 194 __.

_____
By _____
(Title of officer)

Attest:

_____
(Secretary)
(To be used if executed by a corporation.)

Approved:

_____
(Insert name and official title of preson executing the approval in behalf of the government)

NOTE: If the contractor is a corporation, the request will be accompanied by a certified copy of the resolution of the Board of Directors authorizing the request and the agreements therein contained. If a partnership or joint venture the request will be executed by all members of the partnership or joint venture.

[RR 723]

§ 1607.724 *Construction contractors, architects, and engineers information and work sheet for renegotiation.* [RR 724]

§ 1607.724–1 *Instructions for preparation of construction contractors, architects, and engineers information and work sheet for renegotiation.*

CONSTRUCTION CONTRACTORS, ARCHITECTS, AND ENGINEERS INFORMATION AND WORK SHEET FOR RENEGOTIATION

Information indicated in parts I and II herein is required for renegotiation under the Renegotiation Act, as amended. Any part of this information which the contractor has submitted, either in the "Standard Form of Contractor's Report (for Construction Contractors, Architects, and Engineers)" or in connection with a previous renegotiation, may be omitted, provided reference is made to the manner, time, and place of its submission. If any statements or information designated are inapplicable in a particular case, the contractor should so state and give the reason therefor. In financial statements all cents may be omitted. The contractor should so indicate if he prefers to discuss with the renegotiation authorities the methods of segregation of gross earnings and allocation of costs and expenses. In such cases, the contractor should submit all other information requested herein.

The contractor should certify that all information and data (subject to qualifications, if any, specifically set forth) are true and correct to the best of his knowledge and belief.

PART I—INSTRUCTIONS FOR PREPARATION OF EXHIBITS

The enclosed exhibits are provided for the contractor's use in this connection. Should he submit in some other form his income data separated as between renegotiable and nonrenegotiable business, these exhibits should be used as guides.

Exhibit I

For an interpretation of items entering into renegotiable and nonrenegotiable business, respectively, refer to "Standard Form of Contractor's Report (for Construction Contractors, Architects, and Engineers)," Instructions 3, 4, and 6.

Line 1. Gross earnings. Enter total dollar volume of all work done under prime contracts, subcontracts, and purchase orders and other earnings, segregated as indicated by the columnar headings. For lump-sum and unit-price contracts (column A) show total contract price. For cost-plus-fixed-fee contracts (column B) show total reimbursements and fees earned. On joint venture lump-sum and unit-price contracts enter contractor's proportionate share of the total contract price (column C). On joint-venture cost-plus-fixed-fee contracts enter his proportionate share of the reimbursable costs and fees (column C). (Joint ventures are renegotiated as separate entities.) Column D is to be used only by contractors who report for tax purposes on other than the completed contract basis, but who prepare this exhibit I on a completed contract basis.

Line 2. Job costs. Enter in each column the job costs applicable to the corresponding contract earnings entered on line 1. For cost-plus-fixed-fee contracts (column B) include both reimbursable and direct nonreimbursable costs. For joint-venture contracts (column C) show proportionate share of costs.

Lines 5, 8, and 9. General and administrative expenses; other income; other deductions. Allocate to the classifications indicated for each column in accordance with the most equitable method in view of the particular situation.

Line 11. Rental income from owned equipment (net). Enter on this line in column E the renegotiable portion of the net amount (gross less applicable costs and expenses) received or accrued from the rental of equipment owned by the contractor; in column F the nonrenegotiable portion of such net earnings; and in column G the sum of the amounts entered in columns E and F, respectively. If these amounts are significant, the contractor should support them by a separate schedule showing gross earnings from such rentals, distributed between renegotiable and nonrenegotiable business, and costs and expenses applicable to each classification, with resultant net earnings as shown in columns E, F, and G, respectively.

Line 12. Sales and other earnings. Enter on this line in column E the renegotiable portion of the net income from sales and services not included in columns A to D, inclusive; in column F the nonrenegotiable portion of such income; and in column G the sum of the amounts entered in columns E and F, respectively. The contractor should support these amounts by a separate schedule showing net sales and/or income from services, cost of sales and/or services, expenses applicable to each classification, and resultant net profits, as shown in columns E, F, and G, respectively.

Lines 14, 15, 16, 17, and 18. Amounts on these lines are to be entered in column G only.

Supporting schedules. Furnish supporting schedules as directed on the back of exhibits I and IA (also IB if applicable).

PART II—GENERAL INFORMATION

A. One copy each of the following:

1. Balance sheets as of the close of the year under review and each of the three (3) preceding years, and related analyses of surplus or net worth.

2. Income statement as regularly prepared, for the year under review.

3. Federal income and excess profits tax returns filed for the year under review.

4. Detailed or long form audit report, if available.

B. *Information relative to affiliates:*

1. A statement showing the names and addresses of the contractor's parent, subsidiary, and affiliated companies and organizations, with a brief description of the character of their business, the nature and extent of their affiliation, and an expression of the contractor's opinion as to whether or not, during the year under review, they had business subject to the Renegotiation Act, and as to which should be consolidated for purposes of renegotiation.

2. If the financial statements are submitted on a consolidated basis, similar financial statements for each subsidiary included in such consolidation.

3. The basis of setting intercompany prices (including rentals) when affiliates or subsidiaries are not consolidated.

4. A statement of sales and rentals to and purchases and rentals from subsidiaries and affiliates.

Instructions. The terms "affiliates" and "affiliated companies and organizations" means all persons under the control of or controlling, or under common control with the contractor.

C. A statement or schedule, amplified by adequate explanations, with respect to each of the following:

1. Type and approximate value of any materials or other assistance received from the Government or prime contractors;

2. The effect of raw material exemptions and "excess inventory" calculations provided for in subsection (i) of the Act;

3. Sales of materials and rentals of equipment to subcontractors entering into repurchases from them;

4. Interdepartmental sales not eliminated;

5. Any basic changes during the year under review in accounting methods, depreciation rates, and/or methods of inventory valuation;

6. Volume of direct renegotiable earnings from contracts with the subsidiaries of Reconstruction Finance Corporation (Defense Plant Corporation, Defense Supplies Corporation, Metals Reserve Co. and Rubber Reserve Co.), and the amount of profits therefrom. (If profits on such earnings are not segregated on the books, best estimate should be given);

7. A brief description of any bonus, pension trust, or other employee compensation plans in effect during the year under review, with comment as to how they are applicable to personnel for which compensation data are specifically supplied (officers, highly paid employees, etc.), and showing the dates that such plans were adopted. State whether approval has been obtained from the Bureau of Internal Revenue;

8. The latest taxable year examined by the Bureau of Internal Revenue and any significant changes made in taxable income or invested capital as a result of examinations made by the Bureau since 1 January 1942;

9. Any changes in excess profits tax credit claimed or to be claimed under section 721 or 722 of the Internal Revenue Code;

10. If royalties in excess of $25,000 were paid or accrued during the year under review, the names of significant payees and amounts of payments. Similarly, if the contractor received royalties in excess of $25,000, the names of licensees and amounts received from each;

11. Any revaluation of assets or recapitalization during the year under review;

12. Stockholders owning over 10 percent of voting stock and stockholdings of officers and key executives;

13. Financial interest in any subcontractor, supplier of material, or any concern from which construction plant or equipment has been acquired or rented during the year under review;

14. If the reporting entity is a joint venture, a certified copy of the joint-venture agreement;

15. Schedule showing name, address, and amount paid or accrued to each person, other than full-time employees, for obtaining or attempting to obtain contracts with any of the Departments named in the Act;

16. Any other matters with particular reference to those factors set forth in section (a) (4) (A) of the 1943 Act.

Instructions. Since each of the subjects listed above requires development in some detail for purposes of renegotiation, in order that full value can be given to the contractor's contribution to the conduct of the war, the contractor should give careful consideration to the preparation of his statements relative thereto. While such statements may be amplified at a meeting with representatives of the War Contracts Price Adjustment Board, it is desirable that they be presented in writing before such meeting.

[RR 724.1]

§ 1607.724–2 *Exhibit I: Income statement.*

NOTE: Forms printed in the FEDERAL REGISTER are for information only and do not follow the exact format prescribed by the issuing agency.

Budget Bureau No. 49–R200.
Approval expires 12–31–44.

EXHIBIT I—INCOME STATEMENT

For the fiscal year ended _____, 194__
(Segregated as to renegotiable and nonrenegotiable business as defined under the Renegotiation Act)

Exact name of contractor _____ Address _____

We keep our books on the Cash ☐ Accrual ☐ basis; we report our operations for Federal Income Tax Purposes on the Completed Contract ☐ Percentage of Completion ☐ basis; this Exhibit I is prepared on the Completed Contract ☐ Percentage of Completion ☐ basis.

	Subject to Renegotiation					Nonrenegotiable Business	Total Business
	Lump Sum and Unit Price Contracts	Cost-Plus-Fixed-Fee Contracts	Joint Ventures (proportionate share)	Uncompleted Contracts at End of Year	Total Subject to Renegotiation		
	(Column A)	(Column B)	(Column C)	(Column D)	(Column E)	(Column F)	(Column G)
1. Gross earnings	$	$	$	$	$	$	$
2. Job costs							
3. Gross profit							
4. Percent gross profit to job cost	%	%	%	%	%	%	%
5. General and administrative expenses							
6. Operating profit							
7. Percent operating profit to gross earnings	%	%	%	%	%	%	%
8. Other income							
9. Other deductions:							
(a) State taxes measured by income							
(b) Other							
10. Net contract earnings							
11. Rental income from owned equipment (net)	xxxxxx	xxxxxx	xxxxxx	xxxxxx			
12. Income from sales for war-end and other earnings (net)	xxxxxx	xxxxxx	xxxxxx	xxxxxx			
13. Net profit before provisions for Federal taxes on income and for extraordinary reserves	xxxxxx	xxxxxx	xxxxxx	xxxxxx			
14. Provisions for Federal taxes on income (gross)	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	
15. Postwar refund of excess profits tax (credit)	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	
16. Net profits before extraordinary reserves	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	
17. Prov. for extraordinary reserves	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	
18. Net income	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	xxxxxx	$

SUPPORTING SCHEDULES TO EXHIBIT I

Furnish all schedules checked (x) in the following list

☐ Exhibit IA or the equivalent.
☐ Schedule of direct nonreimbursable costs applicable to CPFF contracts. List the items and amounts included in job costs on line 2 in column B.
☐ Schedule of salaries and all other compensation paid or accrued during the year under review and for each of the 5 preceding years:
(a) to all officers, partners, and sole proprietors.
(b) to other individuals and organizations receiving $10,000 or more in the year under review. (List five highest only.)
Show for each individual or organization: Name, title, or relationship and total compensation.
☐ Schedule of depreciation:
If any accelerated depreciation and/or amortization of emergency facilities is included, show in each case amount and basis of computation.
☐ Schedule of other income:
List items, grouped by major classifications, included in total amount shown on line 8, column G. Explain fully the basis used in allocating to columns A to F inclusive.
☐ Schedule of State taxes measured by income:
List by States amounts of taxes (including franchise taxes) measured by income included on line 9*a*, column G. Explain fully the basis used in allocating to columns A to F inclusive.
☐ Schedule of other deductions:
List items, grouped by major classifications, included in total amount shown on line 9*b*, column G. Explain fully the basis used in allocating to columns A to F inclusive.
☐ Schedule of contracts terminated and in process of termination:
List the contracts included in exhibit I which were terminated during the year under review and in process of termination at its close, showing for each (*a*) contract number, (*b*) interested Department or service, (*c*) contract earnings, (*d*) related costs.
☐ Reconciliation of exhibit I with Federal Income Tax Return.
☐ Reconciliation of exhibit I with profit and loss statement prepared from contractors' books.

[RR 724.2]

§ 1607.724–3 *Exhibit IA (detail of Exhibit I).*

NOTE: Forms printed in the FEDERAL REGISTER are for information only and do not follow the exact format prescribed by the issuing agency.

Budget Bureau No. 49–R200*
Approval expires 12–31–44.

EXHIBIT IA

(Detail of Exhibit I)

Name of contractor _____

Address of contractor _____

	Column A	Column B	Column C	Column D	Column E	Column F	Column G
Job costs:							
1. Materials used, less discounts	$	$	$	$	$	$	$
2. Labor:							
(*a*) Direct, including foremen							
(*b*) Supervisory							
Total	$	$	$	$	$	$	$
3. Subcontracts							

EXHIBIT IA—Continued

	Column A	Column B	Column C	Column D	Column E	Column F	Column G
4. Construction plant and equipment							
(*a*) Rentals paid to others	$	$	$	$	$	$	$
(*b*) Rentals for use of own equipment, per books	$						
Total	$	$	$	$	$	$	$
5. Miscellaneous job costs:							
(*a*) Bond premium, net	$	$	$	$	$	$	$
(*b*) Insurance, net							
(*c*) Maintenance and repair of equipment							
(*d*) Gas, oil, and grease							
(*e*) Field office expense							
(*f*) Depreciation (describe)							
(*g*) Other							
Total	$	$	$	$	$	$	$
6. Total job costs	$	$	$	$	$	$	$
Explain bases of allocation:							
General and administrative expenses:							
7. Salaries of officers, partners, or owners	$	$	$	$	$	$	$
8. Other salaries							
9. Selling and advertising expenses							
10. Depreciation (describe)							
11. Other operating expenses							
12. Total general and administrative expenses	$	$	$	$	$	$	$
Explain basis of allocation:							

SUPPORTING SCHEDULES TO EXHIBIT IA

Furnish all schedules checked (x) in the following list

☐ Schedule of work subcontracted, by classifications assigned to the columns in exhibit IA, showing names and addresses of subcontractors, types and amount of work subcontracted, totals to agree with amounts on line 3 (subcontracts).

☐

[RR 724.3]

§ 1607.724–4 *Exhibit IB (detail of costs and expenses) by contracts.*

NOTE.—Forms printed in the FEDERAL REGISTER are for information only and do not follow the exact format prescribed by the issuing agency.

Budget Bureau No. 49–R197.1.
Approval expires 12/31/44.

EXHIBIT IB
(Detail of Costs and Expenses)
By Contracts

Name of contractor _____

Address of contractor _____

	Contract number								
Job costs (exhibit I, line 2):									
1. Materials used, less discounts	$	$	$	$	$	$	$	$	$
2. Labor:									
(a) Direct, including foremen									
(b) Supervisory									
Total									
3. Subcontracts									
4. Construction plant and equipment:									
(a) Rentals paid to others									
(b) Rentals for use of own equipment, per books									
Total									
5. Miscellaneous job costs:									
(a) Bond premium, net									
(b) Insurance, net									
(c) Maintenance and repair of equipment									
(d) Gas, oil, and grease									
(e) Field office expense									
(f) Depreciation (describe)									
(g) Other									
Total									
6. Total job costs									
General and admin. exp. (exhibit I, line 5):									
7. Salaries of officers, partners, or owners									
8. Other salaries									
9. Selling and advertising expense									
10. Depreciation (describe)									
11. Other operating expenses									
12. Total general and admin. expense	$	$	$	$	$	$	$	$	$

SUPPORTING SCHEDULES TO EXHIBIT IB

(Exhibit IB will generally be used only when renegotiation is conducted on a completed contract basis)

Furnish all schedules checked (X) in the following list.

☐ Breakdown of gross contract earnings by contracts to support the amount shown in each column on line 1 of exhibit I. For amounts in columns A to D inclusive show prime and subcontract number, department or agency (if a subcontractor, also name and address of prime contractor), description and location of work, amount. For amount in column F show name and address of client, location and description of work, amount.

☐ Breakdown of job costs by contracts to support the amounts shown on line 2 of exhibit I in columns A, B, C, D and F. Show itemization of job costs as carried on your books, including such items as labor, material, subcontracts, equipment, rentals, etc. (Exhibit IB.)

☐ Schedule of work subcontracted, by contracts, showing names and addresses of subcontractors, types and amounts paid for work subcontracted.

☐ Schedule of direct nonreimbursable costs. List of contracts, the items and amounts included in job costs on line 2 in column B of exhibit I.

[RR 724.4]

§ 1607.724–5 *Exhibit II: Comparative statement of income.*

NOTE: Forms printed in the FEDERAL REGISTER are for information only and do not follow the exact format prescribed by the issuing agency.

Budget Bureau No. 49–R200
Approval expires 12/31/44.

EXHIBIT II.—COMPARATIVE STATEMENT OF INCOME

(In even thousands of dollars)

To be submitted only if the information required for renegotiation purposes has not been previously submitted.

Name of Contractor _____ Address _____

	Years ended _____						
	19__	19__	19__	19__	19__	19__	19__
1. Gross earnings:							
a. Lump sum and unit price work	$	$	$	$	$	$	$
b. Cost-plus-fixed-fee work							
c. Other earnings (describe)							
TOTAL							
2. Job costs							
3. Gross profit							
4. Percent of gross profit to job costs							
5. General and administrative expenses							
6. Operating profit							
7. Percent of operating profit to gross earnings							
8. Other income							
9. Other deductions							
10. Net profit before provisions for Federal taxes on income and for extraordinary reserves							
11. Provision for Federal taxes on income (gross)							
12. Post-war refund of excess profits tax (credit)							
13. Net profit before extraordinary reserves							
14. Provisions for extraordinary reserves							
15. Net income per books	$	$	$	$	$	$	$

[RR 724.5]

§ 1607.725 *Agreement extending time for completion of renegotiation.*

_____ 194__

It is hereby stipulated and agreed by and between the United States of America and _____ a _____ with principal business office at _____ (hereinafter referred to as the "Contractor"), as follows:

(1) Renegotiation pursuant to the Renegotiation Act between the War Contracts Price Adjustment Board or its duly authorized representative and the Contractor with respect to amounts received or accrued by the Contractor for the Contractor's fiscal year ended _____ was commenced _____ 194__.

(2) In accordance with the provisions of clause (B) of the second sentence of subsection (c) (3) of the Renegotiation Act, the time within which a determination of the amount of excessive profits, if any, derived by the Contractor from contracts with the Departments and subcontracts for the Contractor's fiscal year ended _____ may be made by agreement or order is hereby extended to and including _____ 194__.

_____
(Name of Contractor)

By _____
(Title)

UNITED STATES OF AMERICA,

By _____
Acting on behalf of the War Contracts Price Adjustment Board created by the Renegotiation Act, under due delegations of authority made pursuant to subsection (d) (4) of the Renegotiation Act.

If a corporation add (corporate seal)
Attest:

_____
Secretary

[RR 725]

SUBPART C—FORMS RELATING TO TAX CREDIT

§ 1607.731 *Letter from corporation to Internal Revenue Agent in Charge.*[1]

Internal Revenue Agent in Charge,

Dear Sir: The Price Adjustment Board of the _____ requests your advice as to the amount of the credit as defined by Section 3806 of the Internal Revenue Code with respect to a proposed elimination of excessive profits by _____ in
(taxpayer's name and address)
the amount of $____, included in its income and excess profits tax return for the taxable year ended _____, 194__, as filed with the Collector of Internal Revenue at _____
[Certified (photostat) copies of the returns (pages 1 and 2 of Forms 1120 and 1121) as filed for such taxable year are enclosed for your assistance in computing the amount of the credit. If you require copies of schedules or other papers attached to the returns, they will be furnished promptly upon request]

Please forward your reply directly to

(name and address of Board or Section)
with a copy to the undersigned.

Very truly yours,

[RR 731]

§ 1607.732 *Letter from individual to Internal Revenue Agent in Charge relating to a taxable year not beginning in 1941 (no overpayment of 1943 tax liability).*

Internal Revenue Agent in Charge,

---,

Dear Sir: The Price Adjustment Board of the _____ requests your advice as to the amount of the credit as defined by Section 3806 of the Internal Revenue Code with respect to a proposed elimination of excessive profits by _____ of $_____
(taxpayer's name and address)
for the taxable year ended_____, 194__. $_____ of these excessive profits were included in income for said taxable year in computing the total income and Victory tax in the taxpayer's return for the year ended _____, 194__ as filed with the Collector of Internal Revenue at _____. A certified (photostat) copy of this return is enclosed for your assistance in computing the amount of this credit.

Please forward your reply directly to

(name and address of Board or Section)
with a copy to the undersigned.

Very truly yours,

[RR 732]

§ 1607.733 *Letter from individual to Internal Revenue Agent in Charge relating to a taxable year not beginning in 1941 (overpayment of 1943 tax liability).*

Internal Revenue Agent in Charge,

---,

Dear Sir: The Price Adjustment Board of the _____ requests your advice as to the amount of the credit as defined by Section 3806 of the Internal Revenue Code with respect to a proposed elimination of excessive profits by _____ in the amount
(taxpayer's name and address)
of $_____ for the taxable year ended _____, 194__. These excessive profits were included in the taxpayer's income for said taxable year in computing his estimated tax for 1943, and $_____ thereof were included in his income for said taxable year in computing his total income and Victory tax in his return for the year ended _____, 194__ as filed with the Collector of Internal Revenue at _____. A certified (photostat) copy of this return is enclosed for your assistance in computing the amount of this credit.

Please forward your reply directly to

(name and address of Board or Section)
with a copy to the undersigned.

Very truly yours,

[RR 733]

SUBPART D—FORMS RELATING TO AGREEMENTS AND UNILATERAL DETERMINATIONS

§ 1607.741 *Agreement forms.* [RR 741]

§ 1607.741–1 *Standard form of agreement.*

WAR CONTRACTS PRICE ADJUSTMENT BOARD

(Department)

RENEGOTIATION AGREEMENT

This agreement is entered into as of the _____day of_____ 194__, by and between the United States of America (hereinafter referred to as "the Government") and

---

([1] a corporation organized and existing under the laws of the state of_____; [1] co-partners, doing business under the firm name of_____, [1] a sole proprietor, doing business under the name of_____, having its principal office at_____) (hereinafter referred to as "the Contractor").

1. *Profits to be eliminated.* As a result of renegotiation pursuant to the Renegotiation Act, the Government and the Contractor hereby determine and agree that_____ Dollars ($_____) of the profits derived by the Contractor from contracts and subcontracts of the Contractor which are subject to renegotiation under the Renegotiation Act (hereinafter referred to as "said contracts and subcontracts") represent the amount of profits received or accrued under said contracts and subcontracts during the Contractor's fiscal year ended_____, 194__, (hereinafter referred to as "said fiscal year") which pursuant to the Renegotiation Act should be eliminated.[2]

2. *Warranty.* This agreement has been entered into in reliance, among other things, upon the representations of the Contractor, including the financial and other data submitted by the Contractor upon the basis of which the statement set forth in Exhibit "A" annexed hereto and made a part hereof was prepared.

The Contractor warrants that the representations made by it to the Government in connection with this renegotiation are true and correct to the best knowledge, information and belief of the Contractor and that to its best knowledge, information and belief, the Contractor has disclosed all material facts required to make the Contractor's representations complete and not misleading.

3. *Tax Credit Under Section 3806 of the Internal Revenue Code.* The Contractor represents that the profits, the amount of which is agreed in Article 1 hereof to be eliminated, were included in income in the Contractor's Federal income and excess profits tax returns for said fiscal year and that the Contractor has applied or will promptly apply for a computation by the Bureau of Internal Revenue, based upon the assessments made to the date of such computation, of the amount by which the taxes of the Contractor for said fiscal year payable under Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code are decreased by reason of the application of Section 3806 of the Internal Revenue Code. The amount, if any, so computed will be allowed as a credit against the amount of profits agreed in Article 1 to be eliminated.

4. *Terms of payment.* The Contractor agrees to pay to the Government the sum of _____ Dollars ($_____), being the amount determined in Article 1 hereof to be eliminated, as follows:

Payment shall be made by check to the order of the Treasurer of the United States and forwarded _____[3] All unpaid installments hereunder may at the option of the Government be declared and thereupon shall become immediately due and payable, in the event of a default continuing for twenty days in the payment of any amount required to be paid under this agreement. Interest at the rate provided by law in the District of Columbia as the rate which is applicable in the absence of express contract as to the rate of interest, shall accrue and shall be payable upon each payment due under this agreement from and after the due date thereof, whether original or accelerated.

5. *Additional profits to be eliminated.*[4] If, as a result of the elimination of the amount of profits determined pursuant to Article 1 hereof, the Contractor shall either receive a refund (whether by repayment or credit) or shall recognize a reduction in its liability (by giving effect thereto on its books) in respect of any item which was allowed as an item of cost in the determination of such profits, then promptly thereafter, the Contractor shall pay to the Government, as additional profits which should be eliminated a sum equal to the amount of such refund or reduction in liability, by the delivery to _____ of a check payable to the order of the Treasurer of the United States in such amount.

In the elimination of said additional profits the Contractor shall be allowed the tax credit,

---

[1] In the case of an individual, with respect to a taxable year beginning in 1941, this form should be revised with proper adjustment to give effect to the individual return rather than the corporate returns.

[1] Delete inapplicable language.

[2] If the amount of excessive profits to be refunded is limited by the provisions of § 1603.348–3 of this chapter, the following sentence will be added:

"The amount of profits to be eliminated hereby has been determined by taking into consideration the application of the $500,000 or the $25,000 limitation set forth in subsection (c) (6) of the Renegotiation Act as interpreted by § 1603.348–3 of this chapter.

[3] In the event that the profits to be eliminated were derived in part from prime contracts with Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation or Rubber Reserve Company and the total amounts received or accrued under such prime contracts exceeded $50,000, payment of the excessive profits under such prime contracts to the Reconstruction Finance Corporation Price Adjustment Board is required. If such situation exists, insert here—"to the extent of $_____, less the prorata portion of the tax credit, if any, applicable thereto, and by check to the order of and forwarded to the Reconstruction Finance Corporation Price Adjustment Board, 811 Vermont Avenue, Washington 25, D. C., to the extent of $_____, less the prorata portion of the tax credit, if any, applicable thereto." (See §§ 1603.323 and 1605.502–5 of this chapter.)

[4] When the amount of excessive profits to be refunded is limited by the provisions of § 1603.348–3 of this chapter and the renegotiation agreement contains the paragraph set forth in the footnote to Article 1, Article 5 should be omitted.

if any, provided by Section 3806 of the Internal Revenue Code.

6. *Covenant against contingent fees.* The Contractor warrants that it has not employed any person to solicit or secure this agreement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul this agreement.

7. *Officials not to benefit.* No member of or delegate to Congress or resident commissioner or any other person in the employ or service of the United States shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

8. *Discharge of liability.* This agreement shall be final and conclusive according to its terms, and performance by the Contractor in accordance herewith shall be in full discharge of all liability of the Contractor under the Renegotiation Act for excessive profits received or accrued under said contracts and subcontracts for the fiscal year covered hereby and, except upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, this agreement shall not for the purposes of the Renegotiation Act be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States, and this agreement and any determination made in accordance herewith shall not be annulled, modified, set aside, or disregarded in any suit, action or proceeding.

9. *Renegotiation rebate.* Nothing contained in this agreement shall prejudice any right which the Contractor may have to recover a renegotiation rebate pursuant to subsection (a) (4) (D) of the Renegotiation Act.

10. *Execution of agreement.* This agreement has been duly executed by or on behalf of the Contractor pursuant to proper authority and by or on behalf of the Government by the War Contracts Price Adjustment Board by its duly authorized representative to whom authority to execute this agreement has been delegated by the War Contracts Price Adjustment Board pursuant to subsection (d) (4) of the Renegotiation Act.

In witness whereof, the parties hereto have executed this agreement in _____ counterparts as of the day and year above written.

(Corporate seal if a corporation).

By_____
(Title of Officer)

Attest:

_____
Secretary

(To be used if executed by a corporation.)

UNITED STATES OF AMERICA,

By _____
(Title)

Acting on behalf of the War Contracts Price Adjustment Board created by the Renegotiation Act, under due delegations of authority made pursuant to subsection (d) (4) of the Renegotiation Act.

Each exhibit attached hereto is to be initialed for identification by the persons signing on behalf of the Contractor.

A duly certified copy of the resolution of the Board of Directors of the Contractor, if a corporation, authorizing the execution and delivery of this agreement is to be attached hereto.

[RR 741.1]

§ 1607.741–2 *Variations in the standard form.*

(1) *Forward pricing.* When agreement cannot be reached upon specific price reductions, use may be made of the following clause:

The Contractor agrees that so long as it shall have contracts and subcontracts which are by law subject to renegotiation, it will from time to time adjust its prices under such contracts and subcontracts to eliminate the accumulation of profits thereunder regarded by the Contractor as excessive. Within twenty days after the close of that quarter of the Contractor's current fiscal year in which the Contractor has received a fully executed counterpart of this agreement, the Contractor agrees to file with _____ _____ _____ a report setting forth the price reductions, if any, made during all then expired quarters of such current fiscal year applicable to its contracts and subcontracts subject to renegotiation. The Contractor further agrees to file a similar report within twenty days following each subsequent quarter of its current fiscal year setting forth its price reductions, if any, made during such quarter. Each such report may be in such general terms or in such detail as the Contractor deems necessary to an intelligent appraisal thereof, but shall set forth, if feasible, the unit prices before and after each such reduction, and shall set forth an estimate of the aggregate reduction effected thereby for such fiscal year under contracts and subcontracts subject to renegotiation; and shall include, if available, a summary profit and loss statement for the period covered by the report. It is understood and agreed that price reductions will be taken into consideration in any renegotiation which may hereafter be conducted with the Contractor with respect to its current fiscal year, but that, with respect to periods subsequent to the date of this agreement, the obligations of the Contractor under this article will not be deemed to be satisfied by refunds or retroactive price reductions.

Failure on the part of the Contractor to comply fully with this article shall not constitute grounds for reopening this agreement or for setting aside the discharge provided for in Article 8 hereof.

(2) *Variations in Article 2 of the standard form.* When the renegotiation covers a parent and subsidiaries to which are allocated any amounts of the excessive profits,[1] unless all parties sign the agreement the following clause should be added to Article 2 of the standard form of agreement by insertion after the first paragraph of Article 2:

Exhibit B annexed hereto and made a part hereof contains a complete list, as represented by the Contractor, of its subsidiaries, all of which are consolidated with the Contractor for the purposes hereof, except such, if any, as may be expressly excluded from such consolidation, as indicated by proper notation on said Exhibit B. Also noted on Exhibit B is the part, if any, of the profits to be eliminated which is allocated to each subsidiary so consolidated with the Contractor. The part unallocated to subsidiaries is allocated to the Contractor. Each such subsidiary to which is allocated any portion of the profits to be eliminated has duly executed said Exhibit B, thereby agreeing to pay to the Government such portion of the profits to be eliminated which has been allocated to it. All representations and warranties made herein by the Contractor shall be applicable to each such subsidiary and each such subsidiary shall be bound by all representations and warranties made with respect to it. Article 8 of this agreement shall likewise be applicable to each such subsidiary as though it were named herein as the Contractor.

Such exhibit may take the following form:

[1] Exhibit B must be duly executed by each subsidiary to which any portion of the profits to be eliminated has been allocated and an appropriate resolution authorizing such execution must be furnished. (See § 1605.502–12 and 1605.502–13 of this chapter.)

EXHIBIT B

List of, Allocation of Profits To Be Eliminated Among, and Agreement by, Subsidiaries of Contractor Included in the Renegotiation

1. The name, state of incorporation of all subsidiaries, and the dollar amount of profits to be eliminated, if any, which is allocable to each subsidiary, are as follows:

Name and State of incorporation	Allocation of profits to be eliminated (Note 1)
_____	_____
_____	_____
_____	_____
_____	_____

Note 1: If no amount of excessive profits is allocated to a particular subsidiary, insert the word "none" opposite the name of such subsidiary.

2. Each of the undersigned subsidiaries hereby approves and adopts the agreement of which this Exhibit B is a part and agrees to pay to the Government the amount of profits to be eliminated which is allocated to it as hereinabove set forth, and any additional profits eliminated pursuant to the provisions of Article 5 of this agreement resulting from a refund to or the reduction in a liability of such subsidiary, *Provided, however,* That payments by the Contractor pursuant to such agreement shall be applied ratably in satisfaction of the liability of the Contractor and the liability of each of the undersigned. Upon the failure of the Contractor to make when due, either as provided herein or by acceleration, any payment provided by this agreement each of the undersigned subsidiaries agrees to pay to the Government the amount of the profits to be eliminated agreed to be paid by it, to the extent not theretofore paid by the Contractor, together with interest thereon after default as provided in Article 4 of this agreement.

In witness whereof, the undersigned have executed this agreement as of the day and year of execution of the agreement of which this Exhibit B is a part.

[SEAL] _____
By _____
(Title of Officer)

Attest:

_____
Secretary

[SEAL] _____
By _____
(Title of Officer)

Attest:

_____
Secretary

(3) *Variations in Article 3 of the standard form.*

(a) If the contractor has not filed his Federal income or income and excess profits tax returns, or has filed the return but has not included in income as reported therein the profits to be eliminated, the following provisions should be used in lieu of the provisions of Article 3 as contained in the standard form of agreement:

3. Tax Credit Under Section 3806 of the Internal Revenue Code: The amount of profits agreed in Article 1 hereof to be eliminated has not been included in income in the Contractor's Federal income tax return (or income and excess profits tax returns) for said fiscal year and, accordingly, no tax credit under Section 3806 of the Internal Revenue Code is allowed against the amount of such profits to be eliminated. In the event, however, that Federal income or excess profits taxes shall be assessed upon the amount of profits agreed in Article 1 hereof to be eliminated, or any part thereof, there will be allowed to the Contractor the credit, if any, to which it is entitled under Section 3806 of the Internal Revenue Code with respect to such profits.

(b) In some instances, a contractor will have included in income as reported in his

tax returns less than all of the profits to be eliminated. In such a case Article 3 should be modified to read as follows:

3. Tax Credit Under Section 3806 of the Internal Revenue Code. The Contractor represents that of the profits agreed in Article 1 hereof to be eliminated $ _____ were included in income in the Contractor's Federal income tax return (or income and excess profits tax returns) for said fiscal year and that the Contractor has applied or will promptly apply for a computation by the Bureau of Internal Revenue, based upon the assessments made to the date of such computation, of the amount by which the taxes of the Contractor for said fiscal year payable under Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code are decreased by reason of the application of Section 3806 of the Internal Revenue Code. The amount, if any, so computed will be allowed as a credit against the amount of profits agreed in Article 1 to be eliminated. In the event, however, that Federal income or excess profits taxes shall be assessed upon the amount of the profits agreed in Article 1 hereof to be eliminated and which were excluded from income in the Contractor's income tax return (or income and excess profits tax returns) for said fiscal year, there will be allowed to the Contractor the credit, if any, to which it is entitled under Section 3806 of the Internal Revenue Code with respect to such profits.

(c) In the case of a partnership, the tax credit applicable against the amount of the profits to be eliminated is the aggregate of the credits to which each of the partners is entitled. Accordingly, in such a case Article 3 may be modified to read as follows:

3. Tax Credit Under Section 3806 of the Internal Revenue Code. Each of the partners comprising the Contractor represents that his proportionate share of the profits, the amount of which is agreed in Article 1 hereof to be eliminated, was included in his income for his taxable year in which said fiscal year ended in computing his total tax in his Federal income tax return for said taxable year. Each of such partners has applied or will promptly apply for a computation by the Bureau of Internal Revenue, based upon the assessments made to the date of such computation, of the amount by which his taxes for such taxable year under Chapter 1 of the Internal Revenue Code are decreased by reason of the application of Section 3806 of the Internal Revenue Code. The aggregate of the amounts, if any, so computed will be allowed as a credit against the amount of profits agreed in Article 1 to be eliminated.

(4) *Anti-discrimination clause.* Whenever a renegotiation agreement executed under the Act expressly purports to modify the terms of specified existing prime contracts with any of the Departments with respect to future deliveries, and the contract or contracts to be modified do not contain an anti-discrimination clause then the agreement shall include the following provision:

Anti-discrimination. (a) The Contractor, in performing the work required by this contract, shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin.

(b) The Contractor agrees that the provision of paragraph (a) above will also be inserted in all of its subcontracts. For the purpose of this article, a subcontract is defined as any contract entered into by the Contractor with any individual partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity, for a specific part of the work, to be performed in connection with the supplies or services furnished under this contract; *Provided, however,* That a contract for the furnishing of standard or commercial articles or raw material shall not be considered as a subcontract.

(5) *Variations in Article 4 of the standard form.*

(a) If the profits to be eliminated are to be paid in installments, and the amount of the tax credit has not been ascertained, Article 4 may be drafted to read as follows:

4. *Terms of payments.* The Contractor agrees to pay to the Government the amount agreed in Article 1 hereof to be eliminated, less the tax credit, if any, applicable thereto pursuant to Article 3, as follows:

(*a*) $_____, less the pro rata portion of the tax credit applicable thereto, within ten days after the Contractor shall have received a fully executed counterpart of this agreement or written notice of the amount of the tax credit, whichever is later; and

(*b*) $_____, less the pro rata portion of the tax credit applicable thereto, on or before _____ or the due date of the first scheduled payment, whichever shall be later.

Payment shall be made by check to the order of the Treasurer of the United States and forwarded _____[1]

All unpaid installments hereunder may at the option of the Government be declared and thereupon shall become, immediately due and payable, in the event of a default continuing for twenty days in the payment of any amount required to be paid under this agreement. Interest at the rate provided by law in the District of Columbia as the rate which is applicable in the absence of express contract as to the rate of interest, shall accrue and shall be payable upon each payment, due under this agreement from and after the due date thereof, whether original or accelerated.

(b) If the amount of the tax credit has been ascertained before the agreement is drawn, Article 4 may be drafted to read as follows:

4. *Terms of Payment.* The Contractor agrees to pay to the Government the sum of _____ ($_____), being the difference between the amount agreed in Article 1 hereof to be eliminated and the amount of the tax credit referred to in Article 3 which has been determined to be applicable thereto, as follows:

$_____ within ten days after the Contractor shall have received a fully executed counterpart of this agreement, and

$_____ on or before _____; and

$_____ on or before _____.

Payment shall be made by check to the order of the Treasurer of the United States and forwarded _____[1]

All unpaid installments hereunder may at the option of the Government be declared and thereupon shall become, immediately due and payable, in the event of a default continuing for twenty days in the payment of any amount required to be paid under this agreement. Interest at the rate provided by law in the District of Columbia as the rate which is applicable in the absence of express contract as to the rate of interest, shall accrue and shall be payable upon each payment, due under this agreement from and after the due date thereof, whether original or accelerated.

[1] In the event that the profits to be eliminated were derived in part from prime contracts with Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation or Rubber Reserve Company and the total amounts received or accrued under such prime contracts exceeded $50,000, payment of the excessive profits under such prime contracts to the Reconstruction Finance Corporation Price Adjustment Board is required. If such situation exists, appropriate provision should be made so that the portion of the profits eliminated allocable to such prime contracts is paid by check payable and forwarded to the Reconstruction Finance Corporation Price Adjustment Board, 811 Vermont Avenue, Washington 25, D. C.

(6) *Clause to be used in connection with renegotiation on a completed contract basis in certain cases.* Whenever renegotiation is conducted on a completed contract basis pursuant to the request of the contractor in the form therefor which is set forth in § 1607.723, the following clause will be inserted in the renegotiation agreement:

Renegotiation of Construction Contracts and Subcontracts on Completed Contract Basis. At the request of the contractor and with the consent of the renegotiating agency, the renegotiation concluded by this agreement was conducted on a completed contract basis with respect to the construction contracts and subcontracts of the contractor completed within said fiscal year. A copy of said request dated _____ is attached hereto as Exhibit _____, incorporated herein by reference as though set forth herein, and the contractor hereby agrees to be bound by all of the undertakings and conditions set forth in said request.

(7) *Clause relating to waiver of CPFF Claims.* When appropriate, the following clause may be used.

There have been allowed as costs against renegotiable business in the renegotiation for said fiscal year amounts for which claims for reimbursement under cost-plus-fixed-fee contracts have been made and disallowed by the Government. As part of Exhibit A attached hereto, there is set forth a description of such claims for reimbursement, stating the amount of each claim and the amount thereof which has been allowed as a cost against renegotiable business for the purposes of this agreement. The contractor hereby waives and releases such claims for reimbursement and all rights it may now or hereafter have for the collection or reimbursement of said disallowed items to the extent that amounts under such claims have been allowed as costs against renegotiable business.

In addition, if such clause is used, the claims and amounts being waived should be shown as a part of Exhibit A.

[RR 741.2]

§ 1607.741–3 *Contents of Exhibit A to the standard form of agreement.* Exhibit A referred to in the Standard Form of Agreement shall contain, as a minimum, the following financial data and information:

(a) The amount of net sales under fixed price contracts in the aggregate and segregated as between renegotiable and non-renegotiable business.

(b) The net profit on each such amount of fixed price business before Federal taxes on income.

(c) The aggregate amount of billings under cost-plus-fixed-fee contracts subject to renegotiation (i. e., costs plus gross fees).

(d) The net fees earned under renegotiable cost-plus-fixed-fee contracts before Federal taxes on income.

(e) The amount of adjustment in the profits to be eliminated on account of taxes other than Federal taxes measured by income.

(f) The amount of profits to be eliminated shown separately as to fixed price and cost-plus-fixed-fee business. If any part of the profits to be eliminated were derived from prime contracts with RFC subsidiaries, such part of such profits shall be indicated.

The form of the exhibit and the manner in which such financial data and information shall be shown shall be within the discretion of the Department which has conducted the renegotiation. In the

discretion of such Department, any additional financial data or information may be included in Exhibit A. (See paragraph (1) set forth in § 1607.741–2.) [RR 741.3]

§ 1607.741–4 *Contents of Exhibit B to the standard form of agreement.* See paragraph (2) set forth in § 1607.741–2. [RR 741.4]

§ 1607.741–5 *Contents of Exhibit C to the standard form of agreement.* See § 1605.505. [RR 741.5]

§ 1607.742 *Clearance notice.*

Form _____

WAR CONTRACTS PRICE ADJUSTMENT BOARD

_____
(Department)

CLEARANCE

_____, 194____

To:

As a result of renegotiation pursuant to the Renegotiation Act, between the United States of America (hereinafter referred to as "the Government") and _____
(If not a _____
corporation, insert proper description)
corporation having its principal office at _____ in the City of _____, State of _____ (hereinafter referred to as "the Contractor"), it has been determined that no excessive profits have been received by or accrued to the Contractor during the Contractor's fiscal year ended _____ (hereinafter referred to as "said fiscal year"), from contracts and subcontracts of the Contractor which are subject to renegotiation pursuant to the Renegotiation Act and which were included as renegotiable business in the financial and other data upon which this determination is based (hereinafter referred to as "said contracts and subcontracts").

The determination and discharge herein are based upon data submitted by the Contractor including a statement of income and other financial data for said fiscal year.

This instrument shall constitute a final determination that no excessive profits have been received by or accrued to the Contractor during said fiscal year from said contracts and subcontracts and shall finally discharge the Contractor of any liability under the Renegotiation Act for excessive profits derived during said fiscal year from said contracts and subcontracts, subject, however, to the right of the Government, or its duly authorized representative, to reopen this renegotiation and modify or annul the determination and discharge herein upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, including a willful omission by the Contractor to state a material fact required to make any representation of the Contractor not misleading.

The determination and discharge shall not be effective with respect to any amounts heretofore or hereafter received by the Contractor under any of the contracts or subcontracts of the Contractor which are subject to renegotiation unless such amounts were reflected in income for said fiscal year in the financial data submitted by the Contractor and upon which the determination and discharge herein are based.

This determination and discharge are made upon the conditions that (a) no member of or delegate to Congress or resident commissioner, or any other person in the employ or service of the United States, shall be admitted to any share or part of this instrument or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this instrument if made with a corporation for its general benefit, and (b) the Contractor has not employed any person to solicit or secure this instrument upon any agreement for a commission, percentage, brokerage or contingent fee; and (c) the Contractor will notify the War Contracts Price Adjustment Board promptly of the receipt of any amounts paid to the Contractor under any of the contracts or subcontracts referred to above, which amounts are applicable to said fiscal year and which were not reflected in income for said fiscal year in the financial data submitted by the Contractor. Breach of any of the foregoing conditions will give the Government the right to annul this determination.

(1)

UNITED STATES OF AMERICA,

By _____
(Title)

Acting on behalf of the War Contracts Price Adjustment Board created by the Renegotiation Act, under due delegations of authority made pursuant to subsection (d) (4) of the Renegotiation Act.

[1] If subsidiaries of the contractor with like fiscal years are to be included in the clearance notice, add the following sentence:

"This instrument also applies to the _____ (insert number) subsidiaries of Contractor listed on the reverse hereof, as if each were named as Contractor in a separate instrument of like tenor."

Then list the names of the subsidiaries on the reverse side of the clearance notice. If space permits, it is preferable to list them in the inserted paragraph on the face and vary the insertion appropriately. Should corporations with like fiscal years which are affiliated with the Contractor be included in the clearance notice, the suggested insertion should be varied accordingly.

[RR 742]

§ 1607.746 *Unilateral determination; delegated authority.* [RR 746]

§ 1607.746–1 *Order under delegated authority determining excessive profits.*

ORDER UNDER DELEGATED AUTHORITY DETERMINING EXCESSIVE PROFITS

Pursuant to authority duly delegated by the War Contracts Price Adjustment Board, a renegotiation proceeding was duly commenced with _____ (hereinafter called the "Contractor") with respect to the aggregate of the amounts received or accrued by the Contractor under contracts with the Departments and subcontracts as defined in the Renegotiation Act (such contracts and subcontracts being hereinafter collectively referred to as "said contracts with the Departments and subcontracts") for the Contractor's fiscal year ended _____ (hereinafter called "said fiscal year").

In connection with such renegotiation proceeding, a conference was held with the Contractor at or in connection with which there were submitted by the Contractor and obtained from governmental or other reliable sources, certain financial, operating and other data relating to the Contractor's business and the Contractor's profits derived from said contracts with the Departments and subcontracts during said fiscal year. At and in connection with such conference the Contractor has been afforded full opportunity to submit such additional information and to present such contentions as the Contractor deemed material to a determination of excessive profits within the meaning of the Renegotiation Act.

In determining the excessive profits hereinafter determined, due consideration has been given to all such financial, operating and other data and information so furnished or obtained, to each of the contentions so presented, and to all of the factors referred to in subsection (a) (4) (A) of the Renegotiation Act.

As a result of such renegotiation it is hereby determined that _____ Dollars ($_____) represents the portion of the Contractor's profits derived from said contracts with the Departments and subcontracts for said fiscal year, which is excessive within the meaning of the Renegotiation Act. After proper adjustment on acount of taxes, other than Federal taxes, measured by income which are attributable to that portion of the Contractor's profits derived from said contracts with the Departments and subcontracts for said fiscal year which is not excessive, it is hereby determined that the amount of excessive profits of the Contractor for said fiscal year which should be eliminated is _____ Dollars ($_____).

This order will be deemed the determination of the War Contracts Price Adjustment Board upon the conditions prescribed in subsection (d) (5) of the Renegotiation Act. If, and as soon as, this order shall be deemed the determination of the War Contracts Price Adjustment Board, pursuant to subsection (d) (5) of the Renegotiation Act, then _____ (Secretary of a Department) (or such official or officials in such Department to whom the power, function and duty of exercising such authority and carrying out such direction may be or have been delegated or successively redelegated) is hereby authorized and directed to take such action (including the authorization and direction of any other Secretary or Secretaries to take such action) as is provided by the Renegotiation Act and as he deems appropriate to eliminate such excessive profits to be eliminated.

In connection with the payment or discharge by any means of such excessive profits to be eliminated, the Renegotiation Act provides that the Contractor shall be allowed the applicable credit, if any, for Federal income and excess profits taxes as provided in Section 3806 of the Internal Revenue Code.

Dated _____

Issued and Entered on _____ 194___

_____
Title

Acting on behalf of the War Contracts Price Adjustment Board created by the Renegotiation Act, under due delegations of authority made pursuant to subsection (d) (4) of the Renegotiation Act.

[RR 746.1]

§ 1607.746–2 *Notice of order under delegated authority determining excessive profits.*

NOTICE OF ORDER UNDER DELEGATED AUTHORITY DETERMINING EXCESSIVE PROFITS

_____ 194____

GENTLEMEN: You are hereby notified by registered mail that pursuant to renegotiation under the Renegotiation Act, and in accordance with authority delegated by the War Contracts Price Adjustment Board, _____ acting in its behalf, issued and entered an order on _____ 194__, determining that of your profits derived from contracts with the Departments and subcontracts for your fiscal year ended _____ _____ Dollars ($_____) represents excessive profits which should be eliminated. A copy of such order is enclosed herewith.

As provided in the Renegotiation Act such order may, in the discretion of the War Contracts Price Adjustment Board, be reviewed by such Board upon your request or upon its own motion, but unless such review shall have been initiated within the time prescribed by the Renegotiation Act, such order shall be deemed the determination of the War Contracts Price Adjustment Board.

Yours very truly,

_____
Title

Acting on behalf of the War Contracts Price Adjustment Board created by the Renegotiation Act, under due delegations of authority made pursuant to subsection (d) (4) of the Renegotiation Act.

[RR 746.2]

§ 1607.746–3 *Notice of order having become the determination of the War Contracts Price Adjustment Board.*

NOTICE OF ORDER HAVING BECOME THE DETERMINATION OF THE WAR CONTRACTS PRICE ADJUSTMENT BOARD

----------, 1944----

GENTLEMEN: You are hereby notified that no review having been initiated by the War Contracts Price Adjustment Board, either on your request or on its own motion, of the order dated, issued and entered on----------, 194----, pursuant to renegotiation under the Renegotiation Act, by---------- acting on behalf of the War Contracts Price Adjustment Board in accordance with authority delegated by it, determining that of your profits derived from contracts with the Departments and subcontracts for your fiscal year ended ----------, -------- Dollars ($------) represents excessive profits which should be eliminated, such order is deemed the determination of the War Contracts Price Adjustment Board.

A copy of such order is enclosed herewith.

This notice is being mailed to you by registered mail on----------.

Demand is hereby made for the payment of the amount of such excessive profits to be eliminated less the tax credit, if any, referred to in such order. Any check should be drawn to the order of the Treasurer of the United States and delivered to--------

----------[1] [2]

Interest will accrue at the rate of 6% per annum from and after----------

----------(here insert date approximately fifteen days from the date such order is deemed the determination of the War Contracts Price Adjustment Board) on any amount due under such order and unpaid.

Yours very truly,

WAR CONTRACTS PRICE ADJUSTMENT BOARD,

by ----------

[3] ----------

Title

Acting on behalf of the

(Secretary of a Department)

[RR 746.3]

§ 1607.747 *Action by the War Contracts Price Adjustment Board after review.* [RR 747]

[1] In the event that the profits to be eliminated were derived in part from prime contracts with Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation or Rubber Reserve Company and the total amounts received or accrued under such prime contracts exceeded $50,000, appropriate provision should be made so that the portion of the profits eliminated allocable to such prime contracts is paid by check payable and delivered to the Reconstruction Finance Corporation Price Adjustment Board, 811 Vermont Avenue, Washington 25, D. C. (See §§ 1603.323 and 1605.502–5 of this Chapter.)

[2] Insert address within Department to which the Contractor is assigned for renegotiation.

[3] Countersignature on behalf of the Secretary of a Department to which the Contractor is assigned for renegotiation.

§ 1607.747–1 *Order.*

ORDER BY THE WAR CONTRACTS PRICE ADJUSTMENT BOARD AFTER REVIEW

---------- 194----

Upon review of an order issued and entered ----------, 1942----, by ---------- ---------- acting on behalf of the War Contracts Price Adjustment Board in accordance with authority delegated by it, determining ---------- Dollars ($------) as the amount of excessive profits which should be eliminated, derived by ---------- (hereinafter called the "Contractor") from contracts with the Departments and subcontracts as defined in the Renegotiation Act, for the Contractor's fiscal year ended ----------, and after taking into consideration all of the factors referred to in subsection (a) (4) (A) of the Renegotiation Act, the War Contracts Price Adjustment Board has determined that ---------- Dollars ($------) represents the portion of the Contractor's profits derived from said contracts with the Departments and subcontracts for the Contractor's fiscal year ended ----------, which is excessive within the meaning of the Renegotiation Act. After proper adjustment on account of taxes, other than Federal taxes, measured by income, which are attributable to that portion of the profits of the Contractor derived from said contracts with the Departments and subcontracts for said fiscal year which is not excessive, the War Contracts Price Adjustment Board hereby determines that the amount of excessive profits of the Contractor for said fiscal year which should be eliminated is ---------- Dollars ($------).

This order constitutes a determination by the War Contracts Price Adjustment Board upon review as provided by subsection (d) (5) of the Renegotiation Act. The --------

---------- (or such official or officials in such Department to whom the power, function and duty of exercising such authority and carrying out such direction may be or have been delegated or successively redelegated) is hereby authorized and directed to take such action (including the authorization and direction of any other Secretary or Secretaries to take such action) as is provided by the Renegotiation Act and as he deems appropriate to eliminate such excessive profits to be eliminated.

Secretary of a Department

In connection with the payment or discharge by any means of such excessive profits to be eliminated, the Renegotiation Act provides that the Contractor shall be allowed the applicable credit, if any, for Federal income and excess profits taxes as provided in Section 3806 of the Internal Revenue Code.

Dated, ----------.

Issued and entered on ----------, 194----

WAR CONTRACTS PRICE ADJUSTMENT BOARD,

By ----------

[RR 747.1]

§ 1607.747–2 *Notice.*

NOTICE OF DETERMINATION BY ORDER ENTERED BY WAR CONTRACTS PRICE ADJUSTMENT BOARD UPON REVIEW

----------, 194----

Gentlemen: You are hereby notified that upon review of an order dated, issued and entered on ----------, 194----, by ---------- acting on behalf of the War Contracts Price Adjustment Board in accordance with authority delegated by it, pursuant to renegotiation under the Renegotiation Act, the War Contracts Price Adjustment Board has issued and entered its order determining that of your profits derived from contracts with the Departments and subcontracts for your fiscal year ended ----------, ---------- Dollars ($----) represents excessive profits which should be eliminated.

A copy of such order is enclosed herewith.

This notice is being mailed to you by registered mail on ----------.

Demand is hereby made for the payment of the amount of such excessive profits to be eliminated less the tax credit, if any, referred to in such order. Any check should be drawn to the order of the Treasurer of the United States and delivered to ----------[1] [2]

Interest will accrue at the rate of 6% per annum from and after ----------

(here insert date approximately fifteen days from the date of such order) on any amount due under such order and unpaid.

Yours very truly,

WAR CONTRACTS PRICE ADJUSTMENT BOARD,

By ----------

[3] ----------

Title

Acting on behalf of the

(Secretary of a Department)

[RR 747.2]

§ 1607.748 *Withholding orders.* [RR 748]

§ 1607.748–1 *Direction to a contractor to withhold.*

---------- 194----

Gentlemen: Pursuant to renegotiation under the Renegotiation Act, the War Contracts Price Adjustment Board has determined that $---------- of the profits derived by ---------- from contracts with the Departments and subcontracts for the fiscal year ended ---------- are excessive profits which should be eliminated.

In accordance with the Renegotiation Act, the War Contracts Price Adjustment Board has authorized and directed the undersigned to eliminate such excessive profits. Accordingly, you are hereby directed to withhold for the account of the United States, pursuant to subsection (c) (2) of the Renegotiation Act, any and all amounts not in excess of $------ otherwise due or which shall become due from you to said----------

This direction shall be effective immediately and shall continue in effect until further notice from the undersigned.

You are directed further to report in writing to the undersigned within fifteen days from the date hereof the amount, if any, withheld by you for the account of the United States pursuant hereto.

Yours very truly,

Title

Acting on Behalf of the

(Secretary of a Department)

[RR 748.1]

[1] In the event that the profits to be eliminated were derived in part from prime contracts with Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation or Rubber Reserve Company and the total amounts received or accrued under such prime contracts exceeded $50,000, appropriate provision should be made so that the portion of the profits eliminated allocable to such prime contracts is paid by check payable and delivered to the Reconstruction Finance Corporation Price Adjustment Board, 811 Vermont Avenue, Washington 25, D. C. (See §§ 1603.323 and 1605.502–5 of this chapter.)

[2] Insert address within Department to which the Contractor is assigned for renegotiation.

[3] Countersignature on behalf of the Secretary of a Department to which the Contractor is assigned for renegotiation.

§ 1607.748–2 *Direction to a contractor to pay over amounts withheld.*

_____, 194____

GENTLEMEN: Pursuant to direction issued under subsection (c) (2) of the Renegotiation Act you have, as you have reported to the undersigned, withheld for the account of the United States from amounts otherwise due to _____, the sum $_____.

You are hereby authorized and directed to pay over said sum to the United States by delivery to the undersigned of a check in said amount, payable to the order of the Treasurer of the United States.[1]

As provided in said subsection (c) (2) of the Renegotiation Act you are indemnified by the United States against all claims by said _____ on account of such amount withheld.

Yours very truly,

_____
Title
Acting on behalf of the
_____
(Secretary of a Department)

[RR 748.2]

SUBPART E—FORMS OF REPORTS

§ 1607.751 *Progress and operations reports.* (Note: Of the forms referred to in this section, only SPRA I (see § 1607.751–3 and § 1607.751–4) is prepared by Services of the War Department.) [RR 751]

§ 1607.751–1 *Form No. SPRA–O (Weekly Progress Report of Departments).*

SPRA–O

DEPARTMENTAL BOARD WEEKLY PROGRESS REPORT

(Fiscal Year 1943 Assignments)

From: _____ Close of Friday_____
(Department)
To: Assignments & Statistics Branch
WDPAB—Statistics & Progress Section

*NOTE: Before transmitting Weekly Progress Report indicate in appropriate box the number of the last Transmittal Report to or from WDPAB—for reconcilement purposes.

(*)			
☐ 1. Gross Assignments received to date			
☐ 2a. Less—Reassignments requested, pending at WDPAB			
☐ 2b. Less—Reassignments approved, confirmed by WDPB			
3. Net—Assignments charged to this Department			
4. Report of progress on net assignments in process:			
a. Renegotiation not initiated			
b. Statutory renegotiation begun			
c. Bona fide oral agreements reached			
d. Signed agreements in process			
e. Sub-total (4a through 4d)			
			Number of Tabulation Forms SPRAE–8 Attached
5. Report on completed assignments:			
☐ 5a. Completed Settlements			
☐ 5b. Impasse Cases — Unilateral Determinations (Final)			
☐ 5c. Completed Clearances			
Cancellations			
☐ 5d–1. Requested — Pending at WDPAB			
☐ 5d–2. Approved—Confirmed by WDPAB			
5e. Sub-total (5a through 5d–2)			
6. Grand total (4e plus 5e should agree with line 3)			

Rev. 26 May 1944

[RR 751.1]

§ 1607.751–2 *Instructions for preparation of Departmental Board Weekly Progress Report (Form SPRA-O).*

INSTRUCTIONS FOR THE PREPARATION OF DEPARTMENTAL BOARD WEEKLY PROGRESS REPORT (SPRA-O)

(Fiscal year 1943 assignments)

The Weekly Progress Report SPRA-O to be submitted by the—

1. Navy Department—Price Adjustment Board
2. Navy Department—Procurement Legal Division
3. Maritime Commission
4. Reconstruction Finance Corporation
5. Treasury Department
6. War Shipping Administration

to the Assignments and Statistics Branch of the War Department Price Adjustment Board for the information of the War Contracts Price Adjustment Board and the Joint Price Adjustment Board is designed to show (a) the progress of renegotiation (items 4a to 4d) and (b) the degree of accomplishment on assignments completed (items 5a to 5d–2) and (c) as a reconciliation on net Assignments for which the Department is responsible as well as the end result on Completed Settlements and Clearances and Impasse Cases which have finally resulted in unilateral determinations.

Items Reported: (In order of lines on Form SPRA-O).

Line 1. *Total gross assignments received to date:*

(It will be noted this figure is never adjusted downward.)

Information Source: Cumulative total on last Assignment Trans. Report SPRA I–1 received by you from WDPAB.

Line 2a. *Less reassignments requested—Pending at WDPAB:*

Information Source:

Plus—Cumulative Total on last Reassignment Request Trans. Report SPRA I–2a5d1.

Minus—Cumulative Total on last Disapproved Reassignment Trans. Report SPRA I–2ax5d1x.

Minus—Cumulative Total on last Approved Reassignment Trans. Report SPRA I–2b5d2.

Net—Reassignments requested—pending. Total to be reported on line 2a.

Line 2b. *Less reassignments approved—Confirmed by WDPAB:*

Information Source: Cumulative total on last Approved Reassignment Trans. Report SPRA I–2b5d2 delivered to you by WDPAB.

Line 3. *Net assignments charged to this Department:*

Information Source: Line 1 Minus lines 2a and 2b.

Line 4. *Report of progress on net assignments in process.*

Line 4a. *Renegotiation not initiated:*

Information Source: Report to you from your Field Offices covering 1943 assignments on which renegotiation has not begun.

Line 4b. *Statutory renegotiation begun:*

Information Source: Report to you from your Field Offices covering 1943 assignments on which renegotiation has begun but on which a bona fide oral agreement has not been reached with contractor.

Line 4c. *Bona fide oral agreements reached:*

Information Source: Report to you from your Field Offices covering 1943 assignments on which a bona fide oral agreement has been reached with contractor.

Line 4d. *Signed Agreements in Process:*

Information Source: Report to you from your Field Offices plus completed cases under review in Office of Chief prior to delivery to WDPAB of Tabulation Report SPRAE–8 attached to Completed Settlement Transmittal Report SPRA I–5a.

Line 4e. *Subtotal of lines 4a through 4d.*

Line 5. *Report on completed assignments.*

Line 5a. *Completed settlements:*

Information Source: Cumulative total on your last numbered Completed Settlement Transmittal Report SPRA I–5a already delivered to WDPAB with Tabulation Form SPRAE–8 for each Settlement attached.

Line 5b. *Impasse cases—unilateral determinations:*

Information Source: Cumulative total on your last numbered Impasse Unilateral Determination Transmittal Report SPRA I–5b already delivered to WDPAB with Tabulation Form SPRAE–8 for each Unilateral Determination attached.

Line 5c. *Completed clearances:*

Information Source: Cumulative total on your last numbered Completed Clearance Transmittal Report SPRA I–5c already delivered to WDPAB with Tabulation Form SPRAE–8 for each Completed Clearance attached.

Line 5d–1. *Cancellations requested—pending at WDPAB:*

Information Source: Plus—Cumulative total on last cancellation request trans. Report SPRA I–2a5d1.

Minus—Cumulative total on last disapproved cancellation trans. Report SPRA I–2ax5d1x.

Minus—Cumulative total on last approved cancellation trans. Report SPRA I–2b5d2.

Net—Cancellations requested—pending. Total to be reported on line 5d–1.

[1] In the event that the profits to be eliminated were derived in part from prime contracts with Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation of Rubber Reserve Company and the total amounts received or accrued under such prime contracts exceeded $50,000, appropriate provision should be made so that the portion of the profits eliminated allocable to such prime contracts is paid by check payable and delivered to the Reconstruction Finance Corporation Price Adjustment Board, 811 Vermont Avenue, Washington 25, D. C. (See §§ 1603.323 and 1605.502–5 of this chapter.)

Line 5d–2. *Cancellations approved—confirmed by WDPAB:*

Information Source: Cumulative total on last approved cancellation Trans. Report SPRA I–2b5d2 delivered to you by WDPAB.

Line 5e. *Subtotal of Lines 5a through 5d–2.*

Line 6. Grand total (line 4e plus line 5e should agree with line 3).

Rev. 26 May 1944

[RR 751.2]

§ 1607.751–3 *Form No. SPRA I (weekly progress report of War Department Services).*

SPRA I

WAR DEPARTMENT

WEEKLY PROGRESS REPORT

(Fiscal Year 1943 Assignments)

From: _____ Close of Friday _____

To: Assignments & Statistics Branch WDPAB—Statistics & Progress Section

*NOTE: Before transmitting Weekly Progress Report to WDPAB indicate in appropriate box the number of the last Transmittal Report to or from WDPAB—for reconcilement purposes.

(*)

☐ 1. Gross Assignments received to date_____

☐ 2a. Less—Reassignments requested, pending at WDPAB_____

☐ 2b. Less—Reassignments approved, confirmed by WDPAB_____

3. Net—Assignments charged to this Service_____

4. Report of progress on net assignments with service

a. Renegotiation not initiated__

b. Statutory renegotiation begun_

c. Bona fide oral agreements reached _____

d. Signed agreements in process__

e. Subtotal (4a through 4d)____

5. Reconciliation report on assignments delivered to WDPAB

Completed settlements

☐ 5a–1. For WDPAB review_____

☐ 5a–2. For WDPAB approval_____

☐ 5b. Impasse Cases_____

Completed clearances

☐ 5c–1. For WDPAB review_____

☐ 5c–2. For WDPAB approval_____

Cancellations

☐ 5d–1. Requested—Pending at WDPAB _____

☐ 5d–2. Approved—Confirmed by WDPAB _____

5e. Subtotal (5a through 5d)_____

6. Grand total (4e plus 5e should agree with line 3)_____

Rev. 26 May 1944

[RR 751.3]

§ 1607.751–4 *Instructions for preparation of War Department weekly progress report (Form SPRA I).*

INSTRUCTIONS FOR THE PREPARATION OF WAR DEPARTMENT WEEKLY PROGRESS REPORT (SPRA I)

(Fiscal Year 1943 Assignments)

Submitted by the Services at the Close of Each Friday

To the War Department Price Adjustment Board

The Weekly Progress Report SPRA I to be submitted by the Chiefs of Price Adjustment Sections to the War Department Price Adjustment Board is designed to show (a) the progress of renegotiation in each Service (Items 4a to 4d), (b) the degree of accomplishment on assignments delivered to the War Department Price Adjustment Board for appropriate action (Items 5a to d), and (c) as a reconciliation of the records of the Chief of Price Adjustment Section with the Assignments and Statistics Branch, War Department Price Adjustment Board. Those items contained in the report which require weekly reconciliation with the records of the Assignments and Statistics Branch have been provided boxes for the posting of the number of the last Transmittal Report on items delivered to or received from the War Department Price Adjustment Board.

Items Reported: (In order of lines on form SPRA I).

Line 1. *Total gross assignments received to date:*

(It will be noted that this figure is never adjusted downward)

Information Source: Cumulative total on last Assignment Trans. Report SPRA I–1 received by you from WDPAB

Line 2a. *Less—reassignments requested—pending at WDPAB:*

Information Source:

Plus—Cumulative Total on last Reassignment Request Trans. Report SPRA I–2a5d1.

Minus—Cumulative Total on last Disapproved Reassignment Trans. Report SPRA I–2ax5d1x.

Minus—Cumulative Total on last Approved Reassignment Trans. Report SPRA I–2d5d2.

Net—Reassignments Requested—pending. Total to be reported on line 2a.

Line 2b. *Less—reassignments approved—confirmed by WDPAB:*

Information Source: Cumulative total on last Approved Reassignment Trans. Report SPRA I–2b5d2 delivered to you by WDPAB.

Line 3. *Net assignments charged to this service:*

Information source: Line 1 Minus lines 2a and 2b.

Line 4. *Report of Progress on Net Assignments With Service.*

Line 4a. *Renegotiation not initiated:*

Information Source: Report to you from your Field Offices covering 1943 Assignments on which renegotiation has *not* begun.

Line 4b. *Statutory renegotiation begun:*

Information Source: Report to you from your Field Offices covering 1943 Assignments on which renegotiation *has* begun but on which a bona fide oral agreement has *not* been reached with Contractor.

Line 4c. *Bona fide oral agreements reached:*

Information Source: Report to you from your Field Offices covering 1943 Assignments on which a bona fide oral agreement *has* been reached with Contractor.

Line 4d. *Signed agreements in process:*

Information Source: Report to you from your Field Offices plus completed cases under review in Office of Chief of Service *prior* to delivery to WDPAB attached to Completed Settlement Trans. Report SPRA I–5abc.

Line 4e. *Subtotal of lines 4a through 4d.*

Line 5. *Reconciliation report on assignments delivered to WDPAB.*

Line 5a–1. *Completed settlements for WDPAB Review:*

Information Source:

Plus—Cumulative total on your last numbered Completed Settlements Trans. Report SPRA I–5abc covering completed settlements delivered to WDPAB *for review.*

Minus—Cumulative total on last Returned Settlements Trans. Report SPRA I–5abcx.

Net—Completed Settlements in hands of WDPAB for review. Total to be reported on line 5a–1.

Line 5a–2. *Completed settlements for WDPAB approval:*

Information Source:

Plus—Cumulative total on your last numbered Completed Settlements Trans. Report SPRA I–5abc covering Completed Settlements delivered to WDPAB *for approval.*

Minus—Cumulative total on last Returned Settlements Trans. Report SPRA I–5abcx.

Net—Completed Settlements in hands of WDPAB for approval. Total to be reported on line 5a–2.

Line 5b. *Impasse cases.*

Information Source:

Plus—Cumulative total on your last numbered Impasse Trans. Report SPRA I–5abc delivered to WDPAB.

Minus—Cumulative total on last Returned Impasse Trans. Report SPRA I–5abcx.

Net—Impasse Cases in hands of WDPAB Total to be reported on line 5b.

Line 5c–1. *Completed clearances for WDPAB review:*

Information Source:

Plus—Cumulative total on your last numbered Completed Clearance Trans. Report SPRA I–5abc delivered to WDPAB *for review.*

Minus—Cumulative total on last Returned Clearance Trans. Report SPRA I–5abcx.

Net—Completed Clearances in hands of WDPAB for review. Total to be reported on line 5c–1.

Line 5c–2. *Completed clearances for WDPAB approval:*

Information Source:

Plus—Cumulative total on your last numbered Completed Clearance Trans. Report SPRA I–5abc delivered to WDPAB *for approval.*

Minus—Cumulative total on last Returned Clearance Trans. Report SPRA I–5abc.

Net—Completed Clearances in hands of WDPAB for approval—Total to be reported on line 5c–2.

Line 5d–1. *Cancellations requested—pending at WDPAB:*

Information Source:

Plus—Cumulative total on last Cancellation Request Trans. Report SPRA I–2a5d1.

Minus—Cumulative total on last Disapproved Cancellation Trans. Report SPRA I–2ax5d1x.

Minus—Cumulative total on last Approved Cancellation Trans. Report SPRA I–2b5d2.

Net—Cancellations requested—pending. Total to be reported on line 5d–1.

Line 5d–2. *Cancellations approved—confirmed by WDPAB:*

Information Source: Cumulative total on last Approved Cancellation Trans. Report SPRA I–2b5d2 delivered to you by WDPAB.

Line 5e. *Subtotal of lines 5a–1 through 5d–2.*

Line 6. Grand total (line 4e plus line 5e should agree with line 3).

Rev. 26 May 1944

[RR 751.4]

§ 1607.751–5 *Form No. SPRA I–B (War Department Price Adjustment Board "Status of Renegotiation Report").*

SPRA I–B (Revised 1 August 1944)
NOTE: Figures in parentheses indicate net change since the previous report.

1943
Close of Friday .....

STATUS OF RENEGOTIATION REPORT 1943 FISCAL YEAR ASSIGNMENTS
WAR DEPARTMENT PRICE ADJUSTMENT BOARD

Service	Net assignments	(A) Renegotiation not initiated (percent)	(B) Statutory renegotiation begun (percent)	(C) Bona fide oral agreements reached (percent)	(D) Signed agreements in process (percent)	(E) Total assignments with the services (percent)	(F)[1] Total assignments delivered to WDPAB (percent)	Memorandum: Total assignments in column (F) evidenced by following number of agreements
Army Air Forces	( )	( )	( )	( )	( )	( )	( )	( )
Chemical Warfare	( )	( )	( )	( )	( )	( )	( )	( )
Engineers	( )	( )	( )	( )	( )	( )	( )	( )
Hawaii War Cont	( )	( )	( )	( )	( )	( )	( )	( )
Ordnance	( )	( )	( )	( )	( )	( )	( )	( )
Power Procurement	( )	( )	( )	( )	( )	( )	( )	( )
Quartermaster	( )	( )	( )	( )	( )	( )	( )	( )
Signal Corps	( )	( )	( )	( )	( )	( )	( )	( )
Surgeon General	( )	( )	( )	( )	( )	( )	( )	( )
Transportation	( )	( )	( )	( )	( )	( )	( )	( )
War Department PAB	( )	( )	( )	( )	( )	( )	( )	( )
Total current report	( )	( )	( )	( )	( )	( )	( )	( )
Total last report								

[1] Details of column (F) are shown on attached Operations Report SPRA I–C.
Prepared by: Assignments and Statistics Branch, Statistics and Progress Section

[RR 751.5]

§ 1607.751–6 *Form No. SPRA I–BB (1943 fiscal year assignments "Status of Renegotiation Report").*

SPRA I–BB (Revised 1 August 1944)
NOTE: Figures in parentheses indicate net change since the previous report.

1943
Close of Friday .....

STATUS OF RENEGOTIATION REPORT 1943 FISCAL YEAR ASSIGNMENTS

Department	Net assignments	(A) Renegotiation not initiated (percent)	(B) Statutory renegotiation begun (percent)	(C) Bona fide oral agreements reached (percent)	(D) Signed agreements in process (percent)	(E) Total assignments with the departments and services (percent)	(F)[1] Total assignments delivered or reported to WDPAB (percent)	Memorandum: Total assignments in column (F) evidenced by following number of agreements
War Department	( )	( )	( )	( )	( )	( )	( )	( )
Navy PAB	( )	( )	( )	( )	( )	( )	( )	( )
Navy OGC	( )	( )	( )	( )	( )	( )	( )	( )
Maritime	( )	( )	( )	( )	( )	( )	( )	( )
R. F. C.	( )	( )	( )	( )	( )	( )	( )	( )
Treasury	( )	( )	( )	( )	( )	( )	( )	( )
War Shipping	( )	( )	( )	( )	( )	( )	( )	( )
Total current report	( )	( )	( )	( )	( )	( )	( )	( )
Total last report								

[1] Details of Column (F) are shown on attached Operations Report SPRA I–CC. Prepared by: Assignments and Statistics Branch WDPAB, Statistics and Progress Section.

[RR 751.6]

§ 1607.751–7 *Form No. SPRA I–C (War Department Price Adjustment Board "Operations Report").*

SPRA I–C (Revised 1 August 1944)
NOTE: Figures in parentheses indicate net change from the previous report.

1943
Close of Friday .....

OPERATIONS REPORT 1943 FISCAL YEAR ASSIGNMENTS
WAR DEPARTMENT PRICE ADJUSTMENT BOARD
Details of column (F) SPRA I–B covering 1943 fiscal year assignments delivered by services to WDPAB

	Army Air Forces	Chemical Warfare	Engineers	Hawaii War Cont.	Ordnance	Power Procure Officer	Quartermaster	Signal Corps	Surgeon General	Transportation	War Department PAB	Total (column F of status report)	In Process at WDPAB	Completed by WDPAB
5a. Completed settlements:														
For WDPAB Review														
For WDPAB Approval														
b. Impasse cases:														
In process at WDPAB														
Completed—agreement														
Completed—unilateral														
c. Completed clearances:														
For WDPAB Review														
For WDPAB Approval														
d. Cancellations:														
Requested—pending														
Approved by WDPAB														
Total current report												( )		
Total previous report														
Net change	( )	( )	( )	( )	( )	( )	( )	( )	( )	( )	( )	( )	( )	( )

Prepared by: Assignments and Statistics Branch, Statistics and Progress Section.

[RR 751.7]

§ 1607.751–8 *Form No. SPRA I–CC (1943 fiscal year assignments "Operations Report").*

OPERATIONS REPORT 1943 FISCAL YEAR ASSIGNMENTS

1943
Close of Friday .....

SPRA I–CC (Revised 1 August 1944)
NOTE: Figures in parentheses indicate net change from the previous report.
Details of column (F) SPRA I–BB covering 1943 fiscal year assignments delivered by services and reported by departments to WDPAB.

	War Department	Navy PAB	Navy OGC	Maritime	RFC	Treasury	War Shipping	Total (column (F) of status report)	In process at WDPAB	Completed by WDPAB
5a. Completed settlements								( )		
b. Impasse cases:										
In Process at WDPAB		XX	XX	XX	XX	XX	XX	( )		
Completed—agreement		XX	XX	XX	XX	XX	XX	( )		
Completed—unilateral								( )		
c. Completed clearances								( )		
d. Cancellations:										
Requested—pending								( )		
Approved by WDPAB								( )	XX	
Total current report								( )		
Total previous report										
Net Change	( )	( )	( )	( )	( )	( )	( )	( )	( )	( )

Prepared by: Assignments and Statistics Branch WDPAB, Statistics and Progress Section.

[RR 751.8]

§ 1607.751–9 *Form No. WCPAB–4 (report of recoveries effected by statutory renegotiation.)*

WCPAB–4 DEPARTMENTAL REPORT OF RECOVERIES EFFECTED BY STATUTORY RENEGOTIATION

Close of Friday

From:_____ _____
(Department)

TO: War Contracts Price Adjustment Board, Attention: Assignments and Statistics Branch, WDPAB, Statistics and Progress Section.

This Department has entered into legally effective agreements and issued unilateral determinations providing for recoveries of excessive profits in the amounts stated below. The figures given are cumulative totals complete up to and including_____

Recoveries from contractors with fiscal years ending in:	Agreements	Unilateral Determinations
1941–1942	$_____	$_____
[1] 1943	$_____	$_____
[1] 1944	$_____	$_____
Total	$_____	$_____

[1] After Deduction of State Taxes Determined to be Applicable to Non-Excessive Profits.

_____
(Department)
PRICE ADJUSTMENT BOARD,
By _____
(Member)

[RR 751.9]

§ 1607.751–10 *Instructions for preparation of departmental report of recoveries effected by statutory renegotiation (Form WCPAB–4).*

INSTRUCTIONS FOR THE PREPARATION OF DEPARTMENTAL REPORT OF RECOVERIES EFFECTED BY STATUTORY RENEGOTIATION (WCPAB–4)

The Departmental Report of Recoveries Effected by Statutory Renegotiation will be submitted at the close of business every fourth Friday beginning as of Friday, 17 November 1944.

1. Navy Department—Price Adjustment Board.
2. Navy Department—Office of the General Counsel.
3. Maritime Commission—Price Adjustment Board.
4. Reconstruction Finance Corporation—Price Adjustment Board.
5. Treasury Department—Price Adjustment Board.
6. War Shipping Administration—Price Adjustment Board.

to the War Contracts Price Adjustment Board through the Assignments and Statistics Branch of the War Department Price Adjustment Board. The Report will show by fiscal years the cumulative total of recoveries pursuant to legally effective agreements and the cumulative total of recoveries pursuant to legally effective issued unilateral determinations and will be signed by a member of the Departmental Board submitting the Report.

[RR 751.10]

§ 1607.752 *Statement to be furnished contractor.* [RR 752]

§ 1607.752–1 *General instructions.* (a) Subsection (c) (1) of the Renegotiation Act of 1943 requires that whenever the War Contracts Board makes a determination by agreement or order, there must be furnished to the contractor, at his request, a statement showing the determination of excessive profits, the facts used as a basis therefor and the reasons for such determination.

(b) The manner in which and the time at which the statement will be given to the contractor are described in § 1605.520 and following.

(c) The statement cannot be used in The Tax Court of the United States as proof of the facts or conclusions stated therein.

(d) The statement is divided into four principal parts:

(1) Designation of the contractor and the fiscal year under review.

(2) Determination of excessive profits.

(3) Summary of the relevant facts upon which the determination is based.

(4) Reasons for the determination.

[RR 752.1]

§ 1607.752–2 *Form of statement and specific instructions as to its preparation (statutory).*

(1) Designation of the Contractor and Fiscal Period

To: _____
(Contractor's name and address)
Fiscal year _____

In accordance with the provisions of subsection (c) (1) of the Renegotiation Act, you are hereby furnished a statement showing, for your fiscal year above set forth, the determination of excessive profits for said fiscal year and the facts and reasons upon which the determination is based.

If the determination is by order other than an order of the War Contracts Price Adjustment Board, the following clause will be inserted at this point:

"This statement is final only in the event that the determination by order to which it relates is final."

(2) Determination of Excessive Profits.

Pursuant to the provisions of the Renegotiation Act, it has been determined by _____,
(order) (agreement)
dated_____, that, of the profits received by or accrued to you during said fiscal year under contracts or subcontracts subject to renegotiation, the amount of $_____ constitutes profits which should be eliminated.

(3) Summary of the Relevant Facts.

(a) Financial Comparisons.

(i) There shall be made part of this statement comparative financial statements of the contractor which may be in the form of exhibits attached to the statement. If exhibits are used, they should be described and referred to in this part of the statement.

(ii) Comparative balance sheets prepared from those furnished by the contractor, as of the end of the fiscal year 1936 and of each fiscal year thereafter up to and including the fiscal year under review, shall be included.

(iii) Comparative income statements for the same fiscal periods shall be included.

(iv) The statements shall be supplemented by such statistical data related to the fiscal periods as may be deemed pertinent to the renegotiation.

(v) Any disallowance (or additional allowance) as compared with costs shown on the contractor's books shall be indicated.

(vi) The financial comparison referred to in subparagraphs (ii) and (iii) above may be omitted in the discretion of the Department giving a statement furnished after a determination by agreement. In such case, the statement should refer to Exhibit A to the renegotiation agreement (see § 1607.741–3) and also to the contractors annual earnings before taxes for the fiscal year 1936 and for each fiscal year thereafter up to and including the fiscal year under review, to the extent that such information is available and pertinent. When the statement is furnished after a determination by agreement, documentary information furnished by the contractor and properly identified, relating to the financial comparison referred to in subparagraphs (ii) and (iii) above may be incorporated by reference.

(vii) In the case of a statement furnished after a determination by agreement or order, the financial comparison referred to in subparagraphs (ii) and (iii) above may be omitted to the extent information therefor is not made available to the renegotiating officials by the contractor.

(b) Other Facts Related to the Determination.

The statutory factors required to be taken into consideration by subsection (a) (4) (A) of the Renegotiation Act of 1943 must receive consideration and the basic facts related thereto set forth, whether favorable or unfavorable to the contractor. The basic facts will be those resulting from consideration of the data submitted or assembled for the purpose of the renegotiation. Any other facts considered and pertinent to the consideration of the determination shall also be set forth.

(4) Reasons for the Determination.

A statement shall be made of the reasons for the determination in the light of all of the facts and factors referred to in the foregoing portions of the statement, indicating generally the relative significance and importance of such facts and factors. Return on net worth shall be computed before deductions for Federal income taxes and be based on that portion of the net worth determined to have been used in connection with the performance of renegotiable contracts. If this is not practicable, reference to net worth shall be omitted. Such matters as (a) profits on non-renegotiable business and (b) profits after Federal taxes do not constitute factors or reasons to be taken into consideration in the renegotiation proceeding or included in the statement to be furnished to the contractor, although such figures are frequently included in the financial data submitted by the contractor and attached as exhibits to the statement.

[RR 752.2]

§ 1607.752–3 *Substitute paragraphs for the statement where statutory determination has not yet been made.*

(1) Designation of the Contractor and Purpose of Statement

To _____
(Contractor's name and address)
Fiscal year _____

You are hereby furnished with a statement of the facts and reasons upon which the opinion of (name of Board or Section) as to the amount of excessive profits for your fiscal year above set forth was based. Such statement is furnished for the purpose of assisting you in determining whether or not you wish to enter into an agreement providing for the elimination of such excessive profits. It is not a statutory statement as provided in subsection (c) (1) of the Renegotiation Act.

(2) Statement of Opinion of Excessive Profits.

In the opinion of (name of Board or Section) the amount of excessive profits received or accrued by you during such fiscal year under contracts or subcontracts subject to renegotion is $_____.

(3) Summary of the Relevant Facts.

The instructions of § 1607.752–2 (c) applicable to a statement after a determination by agreement apply also to a statement where a statutory determination has not yet been made. In such case, Exhibit A to the renegotiation agreement may be referred to as a preliminary draft and submitted to the contractor in such form (see § 1607.752–2 (c) (vi)).

(4) Reasons for the Determination.

See § 1607.752–2 (d).

[RR 752.3]

§ 1607.753 *Summary of financial; spread sheet.*

Name and address of contractor

Corp. ( ) Part. ( ) Prop. ( )
Fiscal year ended 194-

	Net sales	Profit before taxes on income	Percent of net sales
Renegotiable:			
Fixed price before adjustment	$	$	
Amount recovered			XXX
Fixed price after adjustment			
Cpff before adjustment			
Amount recovered			XXX
Cpff after adjustment			
Non-renegotiable			
(Dis.) allowances, net	XXX		XXX
Other (debits) or credits, net	XXX		XXX
Total business before adjustment			
Total business after adjustment			
PRIOR YEARS			
1942 renegotiable fixed price before adj			
1942 renegotiable fixed price after adj			
1942 total after renegotiation			
1941 (Govt. Bus. ..... %)			
1940 (Govt. Bus. ..... %)			
1939 (Govt. Bus. ..... %)			
1938			
1937			
1936			
1936–1939 average			

Renegotiated by

Date final meeting

Approved by

Date agreement approved

Peacetime products

Wartime products
A.—$.....
B.—$.....
C.—$.....

Character of operation

Net profit (including E. P. T. credit) after taxes	Percent of net worth
$	
XXX	XXX
XXX	XXX

Total materials and subcontracting Percent of cost of renegotiable sales
Materials furnished by Govt. or customer for renegotiable bus. $.....

	Amount	as of
Certificates of necessity	$	
Gross plant		
Net plant		
Net working capital		
Govt. facilities, fixed price		
Govt. facilities, CPFE		
Govt. advances CPFE		
Govt. advances, fixed price		
Other Govt. financing		
Long term debt		
Net worth		

Salaries No.
1943 $.....
1942 .....
1941 .....
1940 .....

Spread sheet

Prepared by

Approved by

Date

Net worth, as of Beg. ( ) End. ( ) 1936, $..... 1937, $..... 1938, $..... 1939, $..... 1940, $..... 1941, $.....

Price reductions policies and comparisons

Expense factors

Cost, efficiency, production factors

Special factors

[RR 753]

SUBPART I—ADDRESSES

§ 1607.791 *War Contracts Price Adjustment Board.* [RR 791]

§ 1607.791–1 *Principal office.*

718 18th Street, N. W., Washington 25, D. C., Tel. Republic 7400, Ext. 4783.

[RR 791.1]

§ 1607.791–2 *Members.*

Brig. Gen. Albert J. Browning, Chairman (War Department), Room 5D675, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 3119.

Mr. W. John Kenney, Vice Chairman (Navy Department), Room 102, Premier Building, 718 18th Street, N. W., Washington 25, D. C., Tel. Republic 7400, Ext. 5169 or 62729.

Mr. Kenneth F. Clark (Maritime Commission), Room 512, Electrical Workers Building, 1200 15th Street, N. W., Washington 5, D. C., Tel. Executive 3340, Ext. 1047.

Captain H. C. Maull, Jr. (Treasury Department), 5304 Procurement Building, 7th and D Streets, S. W., Washington 25, D. C., Tel. District 5700, Ext. 2105.

Mr. Charles T. Fisher, Jr. (Reconstruction Finance Corporation), Room 1167 Lafayette Building, 811 Vermont Avenue, N. W., Washington 25, D. C., Tel. Executive 3111, Ext. 8 or 48.

Mr. Carman G. Blough (War Production Board), Department 1400, 4th and Independence Avenue, S. W., Washington 25, D. C., Tel. Republic 7500, Ext. 71783.

[RR 791.2]

§ 1607.791–3 *Office of General Counsel.*

War Contracts Price Adjustment Board, attention: Mr. Frederick W. R. Pride, General Counsel, Room 126, Premier Building, 718 18th Street, N. W., Washington 25, D. C., Tel. Republic 7400, Ext. 62022 or 2029.

[RR 791.3]

§ 1607.791–4 *Assignment Office.*

Assignments and Statistics Branch, Renegotiation Division, Room 3D 573, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 73678.
or
Clearance and Assignment Officer, Post Office Box 2707, Washington 25, D. C., Tel. Republic 6700, Ext. 73678.

[RR 791.4]

§ 1607.791–5 *Pentagon Office.*

Room 3D 573, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 73626.

[RR 791.5]

§ 1607.792 *Departmental Price Adjustment Boards.*

War Department Price Adjustment Board, Attention: Lt. Col. W. H. Coulson, Executive Officer, Room 3D 573, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 5672.

Navy Price Adjustment Board, attention: Mr. W. John Kenney, Chairman, 718 18th Street, N. W., Washington 25, D. C., Tel. Republic 7400, Ext. 5169 or 62729.

Office of the General Counsel, Navy Department, Services and Sales Renegotiation Section, Washington 25, D. C., Tel. Republic 7400, Ext. 61468.

Treasury Department Price Adjustment Board, attention: Captain H. C. Maull, Jr., Chairman, 5304 Procurement Building, 7th and D Streets, S. W., Washington 25, D. C., Tel. District 5700, Ext. 2105.

Maritime Commission Price Adjustment Board, attention: Mr. A. G. Rydstrom, Room 512, Electrical Workers Building, 1200 15th Street, N. W., Washington 5, D. C., Tel. Executive 3340, Ext. 606 or 607.

War Shipping Administration Price Adjustment Board, attention: Mr. James L. Murphy, Chairman, 39 Broadway, New York 6, New York, Tel. Whitehall 3-8000.

Reconstruction Finance Corporation Price Adjustment Board, attention: Mr. Charles T. Fisher, Jr., Chairman, Lafayette Building, 811 Vermont Avenue, N. W., Washington 25, D. C., Tel. Executive 3111, Ext. 8 or 48.

[RR 792]

§ 1607.793 *War Department Price Adjustment Sections.* [RR 793]

§ 1607.793–1 *Headquarters.*

Price Adjustment Branch, Control Office, AC/AS M. & S., Army Air Forces, Room 5C 964, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Exts. 72209, 4420, 4577.

Price Adjustment Office, Materiel Command, Army Air Forces, Wright Field, Dayton, Ohio, Tel. Kenmore 7111, Exts. 22135, 23292, 25225.

The Chief of Chemical Warfare, attention: Lt. Col. Robert M. Estes, Purchase Policies Branch, Baltimore Sub-Office, OC CWS, 200 West Baltimore Street, Baltimore 1, Maryland, Tel. Lexington 0710.

The Chief of Engineers, attention: Lt. Col. Carl M. Sciple, Price Adjustment Section, Room 5160, New War Department Building, Washington 25, D. C., Tel. Republic 6700, Ext. 76225.

The Chief of Ordnance, attention: Lt. Col. John M. Marble, Price Adjustment Branch, Room 5D 400, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 2283.

The Quartermaster General, attention: Col. H. F. Colt, Price Adjustment Section, Room 2327, Tempo. B., 2nd and Q Streets, S. W., Washington 25, D. C., Tel. Republic 6700, Ext. 3744 or 6485.

The Chief Signal Officer, attention: Mr. Wilfred Goodwyn, Price Adjustment Section, Room 2C 285, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 73278.

The Surgeon General, attention: Lt. Col. Lee I. Park, Renegotiation Division, Room 518, Maritime Building, 1818 H Street, N. W., Washington 25, D. C., Tel. Republic 6700, Ext. 78455.

The Chief of Transportation, attention: Col. James F. Mitchell, Jr., Price Adjustment Section, Room 3A 670, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 4505.

War Department Power Procurement Officer, attention: Major George P. Steinmetz, Deputy, Utilities Price Adjustment Section, Room 5004, New War Dept. Building, Washington 25, D. C., Tel. Republic 6700, Ext. 79994 or 76210.

[RR 793.1]

§ 1607.793–2 *Field Offices of Price Adjustment Sections.*

(a) *Army Air Forces:* 39 South La Salle Street, Chicago 3, Illinois, Tel. Randolph 9720; Enquirer Building, 617 Vine Street, Cincinnati, Ohio, Tel. Cherry 8320; 4614 Prospect Avenue, Cleveland 3, Ohio, Tel. Endicott 7200; 8505 West Warren Avenue, Detroit 32, Mich-

igan, Tel. Hogarth 8730; 3636 Beverly Boulevard, Los Angeles 54, California, Tel. Drexel 7081; 67 Broad Street, New York 4, New York, Tel. Whitehall 4–1600; 420 West Douglas Avenue, Wichita 1, Kansas, Tel. Wichita 5–4621.

(b) *Corps of Engineers:* 50 Whitehall Street, Atlanta 2, Georgia, Tel. Jackson 6180; 20 North Wacker Drive, Chicago 6, Illinois, Tel. Randolph 1311; 1120 Huntington Bank Building, Columbus 16, Ohio, Tel. Main 6481; Santa Fe Building, 1114 Commerce Street, Dallas 2, Texas, Tel. LD 930; 270 Broadway, New York 7, New York, Tel. Barclay 7–1616; 351 California Street, San Francisco, California, Tel. Garfield 6900.

(c) *Ordnance Department:* 700 Frank Nelson Building, Birmingham 1, Alabama, Tel. Birmingham 4–7511; 140 Federal Street, Boston 10, Massachusetts, Tel. Hubbard 9800; 38 South Dearborn Street, Chicago 3, Illinois, Tel. Franklin 4900; Big Four Building, Cincinnati 1, Ohio, Tel. Cherry 3800; 1006 Terminal Tower Building, Cleveland 13, Ohio, Tel. Main 0670; 1832 National Bank Building, Detroit 32, Michigan, Tel. Randolph 9360; Room 1815—80 Broadway, New York 5, New York, Tel. Hanover, 2–7300; 150 South Broad Street, Philadelphia 2, Pennsylvania, Tel. Locust 4020; 1202 Chamber of Commerce Building, Pittsburgh 19, Pennsylvania, Tel. Grant 5966; 1242 Mercantile Building, Rochester 4, New York, Tel. Stone 3203; 3663 Lindell Boulevard, St. Louis 8, Missouri, Tel. Jefferson, 7380; 100 McAllister Street, San Francisco 1, California, Tel. Underhill 3306; 95 State Street, Springfield 3, Massachusetts, Tel. 7–0211.

(d) *The Quartermaster General:* 1 State Street, Boston 9, Massachusetts, Tel. Lafayette 3712; 333 North Michigan Avenue, Chicago 1, Illinois, Tel. Franklin 5910; 521 Fifth Avenue, New York 17, New York, Tel. Murray Hill 2–2622; 520 Kohl Building, Montgomery and California Streets, San Francisco 4, California, Tel. Exbrook 7467; 16th Floor Woodside Building, Greenville, South Carolina, Tel. 7140.

(e) *Signal Corps:* 1 North La Salle Street, Chicago 2, Illinois, Tel. State 9150; 17th and Sansom Streets, Architects Building, Philadelphia 3, Pennsylvania, Tel. Rittenhouse 5950.

(f) *Surgeon General:* 52 Broadway, New York 4, New York, Tel. Hanover 2–5200; Room 1425, Civil Opera Building, 20 North Wacker Drive, Chicago 6, Illinois, Tel. Randolph 1311.

[RR 793.2]

§ 1607.794 *Navy Department.* [RR 794]

§ 1607.794–1 *Navy Price Adjustment Board.*

(a) Washington Division, 718 18th Street NW., Washington 25, D. C., Tel. Republic 7400, Ext. 62729.

(b) New York Division, Room 310, 630 Fifth Avenue, New York 20, New York, Tel. Columbus 5–3851.

(c) Chicago Division, 12th Floor, 7 South Dearborn Street, Chicago 3, Illinois, Tel. Andover 5740.

(d) San Francisco Division, 727 Financial Center Building, 405 Montgomery Street, San Francisco 4, California, Tel. Exbrook 1161.

[RR 794.1]

§ 1607.794–2 *Services and Sales Renegotiation Section.*

(a) Office of the General Counsel, Navy Department, Services and Sales Renegotiation Section, Washington Divisional Office, Washington 25, D. C., Tel. Republic 7400, Ext. 61263.

(b) Office of the General Counsel, Navy Department, Services and Sales Renegotiation Section, New York Divisional Office, Room 310, 630 Fifth Avenue, New York 20, New York, Tel. Columbus 53851.

(c) Office of the General Counsel, Navy Department, Services and Sales Renegotiation Section, Chicago Divisional Office, Room 803–811, U. S. Custom House, 610 South Canal Street, Chicago 7, Illinois, Tel. Wabash 3860.

(d) Office of the General Counsel, Navy Department Services and Sales Renegotiation Section, Los Angeles Divisional Office, Room 907, Van Nuys Building, Seventh and Spring Streets, Los Angeles 14, California, Tel. Tucker 1351.

[RR 794.2]

§ 1607.794–3 *Price Revision Division.*

Price Revision Division, PM320, Office of Procurement and Material, Main Navy Building, Room 2234, Washington 25, D. C., Tel. Republic 7400, Ext. 63009.

[RR 794.3]

§ 1607.795 *Related Offices.*

General Accounting Office, Washington 25, D. C., Tel. Executive 4621.

Chief, Contract Review Branch, Procurement Policy Division, War Production Board, Department 1400, 4th & Independence Avenue, S. W., Washington 25, D. C., Tel. Republic 7500, Ext. 71783.

[RR 795]

§ 1607.796 *Patent Royalty Adjustment Offices.* [RR 796]

§ 1607.796–1 *War Department Patent Royalty Adjustment Offices.*

Patent Counsel, Legal Branch, Office, Director of Matériel, Headquarters, Army Service Forces, Room 5C 683, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 2553.

Chairman, Royalty Adjustment Board, Army Air Forces Matériel Command, Wright Field, Dayton, Ohio, Tel. Kenmore 7111, Ext. 25222.

Chief, Legal Division, Office of the Chief of Transportation, Room 3A 724, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 3556.

Chief, Contracts and Claims Branch, Office of the Chief of Engineers, Room 3213, New War Department Building, Washington 25, D. C., Tel. Republi 6700, Ext. 78253.

Chief, Patent Section, Legal Branch, Office of the Chief of Ordnance, Room 4E 330, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 2748.

Patents and Inventions Counsel, Legal Division, Office of the Chief Signal Officer, Room 4D 331, The Pentagon, Washington 25, D. C., Tel. Republic 6700, Ext. 3702.

Chief, Patent Section, Legal Branch, Office of the Chief of the Chemical Warfare Service, Room 1007, T–7, Gravelly Point, Virginia, Tel. Republic 6700, Ext. 2826.

Chief, Patent Section, Legal Branch, Office of the Quartermaster General, Room 2442, Tempo B, Washington 25, D. C., Tel. Republic 6700, Ext. 4294.

The Patent Representative, Office of the Surgeon General, Room 419, Maritime Building, Washington 25, D. C., Tel. Republic 6700, Ext. 79369.

[RR 796.1]

§ 1607.796–2 *Navy Department Patent Royalty Adjustment Office.*

Office of Patents and Inventions, Navy Department, Washington 25, D. C., Tel. Republic 7400, Ext. 61565.

[RR 796.2]

§ 1607.796–3 *Treasury Department Patent Royalty Adjustment Office.*

Assistant to the Director, Treasury Department, Room 7002, Procurement Building, 7th and D Streets SW., Washington 25, D. C., Tel. District 5700, Ext. 600 or 635.

[RR 796.3]

§ 1607.796–4 *Maritime Commission Patent Royalty Adjustment Office.*

Patent Counsel, Legal Division, U. S. Maritime Commission, Room 5709, Department of Commerce Building, Washington 25, D. C., Tel. Executive 3340, Ext. 959.

[RR 796.4]

§ 1607.796–5 *Reconstruction Finance Corporation Patent Royalty Adjustment Office.*

General Counsel, Price Adjustment Board, Reconstruction Finance Corporation, Room 947, Lafayette Building, 811 Vermont Avenue NW., Washington 25, D. C., Tel. Executive 3111, Ext. 181.

[RR 796.5]

§ 1607.797 *Reconstruction Finance Corporation Price Adjustment Sections.*

[RR 797]

§ 1607.797–1 *Headquarters.*

Reconstruction Finance Corporation, Price Adjustment Board, Lafayette Building, 811 Vermont Avenue NW., Washington 25, D. C., Tel. Executive 3111, Ext. 8 or 48.

[RR 797.1]

§ 1607.797–2 *Field Offices of Price Adjustment Sections.*

Healey Building, Atlanta 3, Georgia, Tel. Main 5612.

Comer Building, Birmingham 3, Alabama, Tel. Birmingham 4–2661.

40 Broad Street, Boston 9, Massachusetts, Tel. Capitol 4070.

Wilson Building, 109 West Third Street, Charlotte 1, N. C., Tel. Charlotte 3–7161.

208 S. LaSalle Street, Chicago 4, Illinois, Tel. State 0600.

Federal Reserve Bank Building, Cleveland 1, Ohio, Tel. Main 8515; Night, Main 8518.

Cotton Exchange Building, Dallas 1, Texas, Tel. LD 171 or Riverside 6751.

Boston Building, Denver 2, Colorado, Tel. Alpine 0415.

607 Shelby Street, Detroit 26, Michigan, Tel. Cherry 8300.

P. O. Box 177, Power Block, Helena, Montana, Tel. Helena 481.

Rusk Building, 723 Main Street, Houston 2, Texas, Tel. Charter 4–6711.

Western Union Building, Jacksonville 2, Florida, Tel. Jacksonville 5–1650.

Federal Reserve Bank Building, Kansas City 6, Missouri, Tel. Victor 3113.

Pyramid Building, Little Rock, Arkansas, Tel. Little Rock 4–0254.

Pacific Mutual Building, Los Angeles 14, California, Tel. Michigan 6321.

Lincoln Bank Building, 421 W. Market Street, Louisville 2, Kentucky, Tel. Wabash 6771.

McKnight Building, Minneapolis 1, Minnesota, Tel. Geneva 8601.

Nashville Trust Company Building, Union Street, Nashville 3, Tennessee, Tel. LD 48 or 5–2182.

Union Building, 837 Gravier Street, New Orleans 12, Louisiana, Tel. Canal 2701.

Federal Reserve Bank Bldg., 33 Liberty Street, New York 5, N. Y., Tel. Rector 2–8100.

Cotton Exchange Building, Oklahoma City 2, Oklahoma, Tel. LD 647 or 2–8541.

Woodmen of the World Bldg., Omaha 2, Nebraska, Tel. Jackson 8200.

1528 Walnut Street, Philadelphia 2, Pennsylvania, Tel. Kingsley 1500.

Pittock Block, Portland 5, Oregon, Tel. Atwater 6401.

Richmond Trust Building, 7th and Main Streets, Richmond 19, Virginia, Tel. Richmond 3–6741.

Landreth Building, 320 N. Fourth Street, St. Louis 2, Missouri, Tel. Garfield 3750.

Dooly Building, Salt Lake City 1, Utah, Tel. Salt Lake City 5-7493.

Alamo National Building, San Antonio 5, Texas, Tel. Cathedral 1461.

200 Bush Street, San Francisco 4, California, Tel. Exbrook 6206.

Dexter Horton Building, Seattle 4, Washington, Tel. Main 1080.

Columbia Building, Spokane 8, Washington, Tel. Main 5111.

[RR 797.2]

§ 1607.798 *War Department Power Procurement Officer.* [RR 798]

§ 1607.798–1 *Headquarters.*

Utilities Price Adjustment Section, Office, Chief of Engineers, Attention: Major George P. Steinmetz, Chief, 5004 New War Department Building, Washington 25, D. C., Tel. Republic 6700, Ext. 79994 or 76210.

[RR 798.1]

§ 1607.798–2 *Field Offices.*

Commanding General, First Service Command, Office, Service Command Engineer, Attention: Mr. W. K. Lewellen, 808 Commonwealth Avenue, Boston 15, Massachusetts, Tel. Beacon 1300, Ext. 430.

Commanding General, Second Service Command, Office, Service Command Engineer, Attention: Major N. H. Davidson, 270 Broadway, New York 7, New York, Tel. Barclay 7-1616.

Commanding General, Third Service Command, Office, Service Command Engineer, Attention: Mr. H. C. Fleming, 101 East Fayette Street, Baltimore 2, Maryland, Tel. Plaza 8060.

Commanding General, Fourth Service Command, Office, Service Command Engineer, Attention: Major R. B. Lapsley, P. O. Box 4114, Atlanta, Georgia, Tel. Jackson 6180, Ext. 85.

Commanding General, Fifth Service Command, Office, Service Command Engineer, Attention: Major L. F. Dabe, Building 62, Fort Hayes, Columbus 18, Ohio, Tel. Columbus 2171, Ext. 635.

Commanding General, Sixth Service Command, Office, Service Command Engineer, Attention: Capt. V. A. Thieman, 20 No. Wacker Drive, Chicago, Illinois, Tel. Raldolph 1311.

Commanding General, Seventh Service Command, Office, Service Command Engineer, Attention: Major R. H. Bradford, Federal Building, 15th & Dodge Streets, Omaha, Nebraska, Tel. Jackson 7900, Ext. 233.

Commanding General, Eighth Service Command, Office, Service Command Engineer, Attention: Major D. W. Reeves, Santa Fe Building, Dallas 2, Texas, Tel. L. D. 930, Ext. 771.

Commanding General, Ninth Service Command, Office, Service Command Engineer, Attention: Major W. C. Sadler, Fort Douglas, Utah, Tel. Fort Douglas 5-6611.

[RR 798.2]

§ 1607.799 *War Shipping Administration.* [RR 799]

§ 1607.799–1 *War Shipping Administration Price Adjustment Board.*

(a) New York Division, 39 Broadway, New York 6, New York, Tel. Whitehall 3-8000.

(b) Pacific Coast Division, 427 Mills Tower Building, 220 Bush Street, San Francisco 4, California, Tel. Garfield 3715.

[RR 799.1]

PART 1608—TEXT OF STATUTES, ORDERS, JOINT REGULATIONS AND DIRECTIVES

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SUBPART A—STATUTES AND EXECUTIVE ORDERS

§ 1608.801 *Renegotiation Act of 1943.* Section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public 528, 77th Congress), approved April 28, 1942, as amended by section 801 of the Revenue Act of 1942 (Public 753, 77th Congress) approved October 21, 1942; by section 1 of the Military Appropriation Act, 1944 (Public 108, 78th Congress), approved July 1, 1943; by Public 149, 78th Congress, approved July 14, 1943; and as amended in full by section 701 (b) of the Revenue Act of 1943 (Public 235, 78th Congress) enacted February 25, 1944. [RR 801]

§ 1608.801–1 *Sec. 403 (a).*

For the purposes of this section—

(1) The term "Department" means the War Department, the Navy Department, the Treasury Department, the Maritime Commission, the War Shipping Administration, Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company, respectively.

(2) In the case of the Maritime Commission, the term "Secretary" means the Chairman of such Commission, in the case of the War Shipping Administration, the term "Secretary" means the Administrator of such Administration, and in the case of Defense Plant Corporation, Metals Reserve Company, Defense Supplies Corporation, and Rubber Reserve Company, the term "Secretary" means the board of directors of the appropriate corporation.

(3) The terms "renegotiate" and "renegotiation" include a determination by agreement or order under this section of the amount of any excessive profits.

(4) (A) The term "excessive profits" means the portion of the profits derived from contracts with the Departments and subcontracts which is determine in accordance with this section to be excessive. In determining excessive profits there shall be taken into consideration the following factors:

(i) efficiency of contractor, with particular regard to attainment of quantity and quality production, reduction of costs and economy in the use of materials, facilities, and manpower;

(ii) reasonableness of costs and profits, with particular regard to volume of production, normal pre-war earnings, and comparison of war and peacetime products;

(iii) amount and source of public and private capital employed and net worth;

(iv) extent of risk assumed, including the risk incident to reasonable pricing policies;

(v) nature and extent of contribution to the war effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

(vi) character of business, including complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

(vii) such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

(B) The term "profits derived from contracts with the Departments and subcontracts" means the excess of the amount received or accrued under such contracts and subcontracts over the costs paid or incurred with respect thereto. Such costs shall be determined in accordance with the method of cost accounting regularly employed by the contractor in keeping his books, but if no such method of cost accounting has been employed, or if the method so employed does not, in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States properly reflect such costs, such costs shall be determined in accordance with such method as in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States does properly reflect such costs. Irrespective of the method employed or prescribed for determining such costs, no item of cost shall be charged to any contract with a Department or subcontract or used in any manner for the purpose of determining such cost,

to the extent that in the opinion of the Board or, upon redetermination, in the opinion of The Tax Court of the United States, such item is unreasonable or not properly chargeable to such contract or subcontract. Notwithstanding any other provisions of this section, all items estimated to be allowable as deductions and exclusions under Chapters 1 and 2E of the Internal Revenue Code (excluding taxes measured by income) shall, to the extent allocable to such contracts and subcontracts (or, in the case of the recomputation of the amortization deduction, allocable to contracts with the Departments and subcontracts), be allowed as items of cost, but in determining the amount of excessive profits to be eliminated proper adjustment shall be made on account of the taxes so excluded, other than Federal taxes, which are attributable to the portion of the profits which are not excessive.

(C) Notwithstanding any of the provisions of this section to the contrary, no amount shall be allowed as an item of cost (i) by reason of a recomputation of the amortization deduction pursuant to section 124 (d) of the Internal Revenue Code until after such recomputation has been made in connection with a determination of the taxes imposed by Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code for the fiscal year to which the excessive profits determined by the renegotiation are attributable or (ii) by reason of the application of a carry-over or carry-back under any circumstances. The absence of such a recomputation of the amortization deductions referred to in clause (i) above shall not constitute a cause for postponing the making of an agreement, or the entry of an order, determining the amount of excessive profits, or for staying the elimination thereof.

(D) Notwithstanding any of the provisions of subsection (c) (4) of this section to the contrary, in the case of a renegotiation which is made prior to such recomputation, there shall be repaid by the United States (without interest) to the contractor or subcontractor after such recomputation the amount of a net renegotiation rebate computed in the following described manner. There shall first be ascertained the portion of the excessive profits determined by the renegotiation which is attributable to the fiscal year with respect to which a net renegotiation rebate is claimed by the contractor or subcontractor (hereinafter referred to as "renegotiated year"). There shall then be ascertained the amount of the gross renegotiation rebate for the renegotiated year, which amount shall be an allocable part of the additional amortization deduction which is allowed for the renegotiated year upon the recomputation made pursuant to section 124 (d) of the Internal Revenue Code in connection with the determination of the taxes for such year and which is attributable to contracts with the Departments and subcontracts, except that the amount of the gross renegotiation rebate shall not exceed the amount of excessive profits eliminated for the renegotiated year pursuant to the renegotiation. The allocation of the additional amortization deduction attributable to contracts with the Departments and subcontracts, and the allocation of the additional amortization deduction to the renegotiated year shall be determined in accordance with regulations prescribed by the Board. There shall then be ascertained the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiaiton for the renegotiated year. Such Federal tax benefit shall be the amount by which the taxes for the renegotiated year under Chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code were decreased by reason of omitting from gross income (or by reason of the application of the provisions of section 3806 (a) of the Internal Revenue Code with respect to) that portion of the excessive profits for the renegotiated year which is equal to the amount of the gross renegotiation rebate. The amount by which the gross renegotiation rebate for the renegotiated year exceeds the amount of the contractor's or subcontractor's Federal tax benefit from the renegotiation for such year shall be the amount of the net renegotiation rebate for such year.

(5) The term "subcontract" means—

(A) Any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of any other contract or subcontract, but such term does not include any purchase order or agreement to furnish office supplies; or

(B) Any contract or arrangement other than a contract or arrangement between two contracting parties, one of which parties is found by the Board to be a bona fide executive officer, partner, or full-time employee of the other contracting party, (i) any amount payable under which is contingent upon the procurement of a contract or contracts with a Department or of a subcontract or subcontracts, or determined with reference to the amount of such a contract or subcontract or such contracts or subcontracts, or (ii) under which any part of the services performed or to be performed consists of the soliciting, attempting to procure, or procuring a contract or contracts with a Department or a subcontract or subcontracts: *Provided*, That nothing in this sentence shall be construed (1) to affect in any way the validity or construction of provisions in any contract with a Department or any subcontract, heretofore at any time or hereafter made, prohibiting the payment of contingent fees or commissions; or (2) to restrict in any way the authority of the Secretary or the Board to determine the nature or amount of selling expenses under subcontracts as defined in this subparagraph, as a proper element of the contract price or as a reimbursable item of cost, under a contract with a Department or a subcontract.

(6) The term "article" includes any material, part, assembly, machinery, equipment, or other personal property.

(7) The term "standard commercial article" means an article—

(A) which is identical in every material respect with an article which was manufactured and sold, and in general civilian, industrial, or commercial use prior to January 1, 1940,

(B) which is identical in every material respect with an article which is manufactured and sold, as a competitive product, by more than one manufacturer, or which is an article of the same kind and having the same use or uses as an article manufactured and sold, as a competitive product, by more than one manufacturer, and

(C) for which a maximum price has been established and is in effect under the Emergency Price Control Act of 1942, as amended, or under the Act of October 2, 1942, entitled "An Act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes", or which is sold at a price not in excess of the January 1, 1941, selling price.

An article made in whole or in part of substitute materials but otherwise identical in every material respect with the article with which it is compared under subparagraphs (A) and (B) shall be considered as identical in every material respect with such article with which it is so compared.

(8) The terms "fiscal year" means the taxable year of the contractor or subcontractor under Chapter 1 of the Internal Revenue Code.

(9) The terms "received or accrued" and "paid or incurred" shall be construed according to the method of accounting employed by the contractor or subcontractor in keeping his books.

[RR 801.1]

§ 1608.801–2 *Sec. 403 (b).*

Subject to subsection (i), the Secretary of each Department is authorized and directed to insert in each contract made by such Department thirty days or more after the date of the enactment of the Revenue Act of 1943 and involving an estimated amount of more than $100,000, a provision under which the contractor agrees—

(1) to the elimination of excessive profits through renegotiation;

(2) that there may be retained by the United States from amounts otherwise due the contractor, or that he will repay to the United States, if paid to him, any excessive profits;

(3) that he will insert in each subcontract described in subsection (a) (5) (A) involving an estimated amount of more than $100,000, and in each subcontract described in subsection (a) (5) (B) involving an estimated amount of more than $25,000, a provision under which the subcontractor agrees—

(A) to the elimination of excessive profits through renegotiation;

(B) that there may be retained by the contractor for the United States from amounts otherwise due the subcontractor, or that the subcontractor will repay to the United States, if paid to him, any excessive profits;

(C) that the contractor shall be relieved of all liability to the subcontractor on account of any amount so retained, or so repaid by the subcontractor to the United States;

(D) that he will insert in each subcontract described in subsection (a) (5) (A) involving an estimated amount of more than $100,000, and in each subcontract described in subsection (a) (5) (B) involving an estimated amount of more than $25,000, provisions corresponding to those of subparagraphs (A), (B), and (C) and to those of this subparagraph;

(4) that there may be retained by the United States from amounts otherwise due the contractor, or that he will repay to the United States, as the Secretary may direct, any amounts which under paragraph (3) (B) the contractor is directed to withhold from a subcontractor and which are actually unpaid at the time the contractor receives such direction.

The obligations assumed by the contractor or subcontractor under paragraph (1) or (3) (A), as the case may be, agreeing to the elimination of excessive profits through renegotiation shall be binding on him only if the contract or subcontract, as the case may be, is subject to subsection (c). A provision inserted in a contract or subcontract, which recites in substance that the contract or subcontract shall be deemed to contain all the provisions required by this subsection shall be sufficient compliance with this subsection. Whether or not there is inserted in a contract with a Department or subcontract, to which subsection (c) is applicable, the provisions specified in this subsection, such contract or subcontract, as the case may be, shall be considered as having been made subject to such subsection in the same manner and to the same extent as if such provisions had been inserted.

[RR 801.2]

§ 1608.801–3 *Sec. 403 (c).*

(1) Whenever, in the opinion of the Board, the amounts received or accrued under contracts with the Departments and subcontracts may reflect excessive profits, the Board shall give to the contractor or subcontractor, as the case may be, reasonable notice of the time and place of a conference to be held with respect thereto. The mailing of such notice by registered mail to the contractor or subcontractor shall constitute the commencement of the renegotiation proceeding.

At the conference, which may be adjourned from time to time, the Board shall endeavor to make a final or other agreement with the contractor or subcontractor with respect to the elimination of excessive profits received or accrued, and with respect to such other matters relating thereto as the Board deems advisable. Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued. If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail to the contractor or subcontractor. In the absence of the filing of a petition with The Tax Court of the United States under the provisions of and within the time limit prescribed in subsection (e) (1), such order shall be final and conclusive and shall not be subject to review or redetermination by any court or other agency. The Board shall exercise its powers with respect to the aggregate of the amounts received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the Departments and subcontracts, and not separately with respect to amounts received or accrued under separate contracts with the Departments or subcontracts, except that the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the Departments or subcontracts at the request of the contractor or subcontractor. Whenever the Board makes a determination with respect to the amount of excessive profits, whether such determination is made by order or is embodied in an agreement with the contractor or subcontractor, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in The Tax Court of the United States as proof of the facts or conclusions stated therein.

(2) Upon the making of an agreement, or the entry of an order, under paragraph (1) by the Board, or the entry of an order under subsection (e) by The Tax Court of the United States, determining excessive profits, the Board shall forthwith authorize and direct the Secretaries or any of them to eliminate such excessive profits (A) by reductions in the amounts otherwise payable to the contractor under contracts with the Departments, or by other revision of their terms; or (B) by withholding from amounts otherwise due to the contractor any amount of such excessive profits; or (C) by directing a contractor to withhold for the account of the United States, from amounts otherwise due to a subcontractor, any amount of such excessive profits of such subcontractor; or (D) by recovery from the contractor, through repayment, credit, or suit any amount of such excessive profits actually paid to him; or (E) by any combination of these methods, as is deemed desirable. Actions on behalf of the United States may be brought in the appropriate courts of the United States to recover from the contractor any amount of such excessive profits actually paid to him and not withheld or eliminated by some other method under this subsection. The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon. Each contractor and subcontractor is hereby indemnified by the United States against all claims by any subcontractor on account of amounts withheld from such subcontractor pursuant to this paragraph. All money recovered in respect of amounts paid to the contractor from appropriations from the Treasury by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts. Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury.[1] In eliminating excessive profits the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code. For the purposes of this paragraph the term "contractor" includes a subcontractor.

(3) No proceeding to determine the amount of excessive profits shall be commenced more than one year after the close of the fiscal year in which such excessive profits were received or accrued, or more than one year after the statement required under paragraph (5) is filed with the Board, whichever is the later, and if such proceeding is not so commenced, then upon the expiration of one year following the close of such fiscal year, or one year following the date upon which such statement is so filed, whichever is the later, all liabilities of the contractor or subcontractor for excessive profits received or accrued during such fiscal year shall thereupon be discharged. If an agreement or order determining the amount of excessive profits is not made within one year following the commencement of the renegotiation proceeding, then upon the expiration of such one year all liabilities of the contractor or subcontractor for excessive profits with respect to which such proceeding was commenced shall thereupon be discharged, except that (A) if an order is made within such one year by the Secretary (or an officer or agency designated by the Secretary) pursuant to a delegation of authority under subsection (d) (4), such one-year limitation shall not apply to review of such order by the Board, and (B) such one-year period may be extended by mutual agreement.

(4) For the purposes of this section the Board may make final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this section. Such agreements may contain such terms and conditions as the Board deems advisable. Any such agreement shall be conclusive according to its terms; and except upon a showing of fraud or malfeasance or a willful misrepresentation of a material fact, (A) such agreement shall not for the purposes of this section be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States, and (B) such agreement and any determination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding.

(5) (A) Every contractor and subcontractor who holds contracts or subcontracts, to which the provisions of this subsection are applicable, shall, in such form and detail as the Board may by regulations prescribe, file with the Board on or before the first day of the fourth month following the close of the fiscal year (or if such fiscal year has closed on the date of the enactment of the Revenue Act of 1943, on or before the first day of the fourth month following the month in which such date of enactment falls), a financial statement setting forth such information as the Board may by regulations prescribe as necessary to carry out this section. In addition to the statement required under the preceding sentence, every such contractor or subcontractor shall, at such time or times and in such form and detail as the Board may by regulations prescribe, furnish the Board any information, records, or data which is determined by the Board to be necessary to carry out this section. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of them under this subsection, or who knowingly furnishes any such statement, information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or imprisonment for not more than two years or both.

(B) For the purposes of this section the Board shall have the same powers with respect to any such contractor or subcontractor that any agency designated by the President to exercise the powers conferred by Title XIII of the Second War Powers Act, 1942, has with respect to any contractor to whom such title is applicable. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Board and the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this section.

(6) This subsection shall be applicable to all contracts and subcontracts, to the extent of amounts received or accrued thereunder in any fiscal year ending after June 30, 1943, whether such contracts or subcontracts were made on, prior to, or after the date of the enactment of the Revenue Act of 1943, and whether or not such contracts or subcontracts contain the provisions required under subsection (b), unless (A) the contract or subcontract provides otherwise pursuant to subsection (i), or is exempted under subsection (i), or (B) the aggregate of the amounts received or accrued in such fiscal year by the contractor or subcontractor and all persons under the control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts (including those described in clause (A), but excluding subcontracts described in subsection (a) (5) (B)) do not exceed $500,000 and under subcontracts described in subsection (a) (5) (B) do not exceed $25,000 for such fiscal year. If such fiscal year is a fractional part of twelve months, the $500,000 amount and the $25,000 amount shall be reduced to the same fractional part thereof for the purposes of this paragraph.

[RR 801.3]

§ 1608.801–4 *Sec. 403 (d).*

(1) There is hereby created a War Contracts Price Adjustment Board (in this section called the "Board"), which shall consist of six members. One of the members shall be an officer or employee of the Department of War and shall be appointed by the Secretary of War, one shall be an officer or employee of the Department of the Navy and shall be appointed by the Secretary of the Navy, one shall be an officer or employee of the Department of the Treasury and shall be appointed by the Secretary of the Treasury, one shall be an officer or employee of the United States Maritime Commission or the War Shipping Administration and shall be appointed jointly by the Chairman of the United States Maritime Commission and the Administrator of the War Shipping Administration, one shall be an officer or employee of the Reconstruction Finance Corporation and shall be appointed by the Chairman of the board of directors of the Reconstruction Finance Corporation, and one shall be an officer or employee of the War Production Board and shall be appointed by the Chairman of the

[1] See § 1608.801–14.

War Production Board. The members of the Board shall not receive additional compensation for service on the Board but shall be allowed and paid necessary travel and subsistence expenses (or a per diem in lieu thereof) while away from their official station on duties of the Board. They shall elect a chairman from among their members. The Board shall have a seal which shall be judicially noticed.

(2) The principal office of the Board shall be in the District of Columbia, but it or any division thereof may meet and exercise its powers at any other place within the United States. The Board may establish such number of field offices throughout the United States as it deems necessary to expedite the work of the Board. Four members of the Board shall constitute a quorum, and any power, function, or duty of the Board may be exercised or performed by a majority of the members present if the members present constitute at least a quorum.

(3) The Board is authorized, subject to the civil-service laws and the Classification Act of 1923, as amended, to employ and fix the compensation of such officers and employees as it deems necessary to assist it in carrying out its duties under this section. The Board may, with the consent of the head of the Department, agency, or instrumentality of the United States concerned, utilize the services of any officers or employees of the United States, and reimburse such Department, agency, or instrumentality for the services so utilized.

(4) The Board may delegate in whole or in part any power, function, or duty to the Secretary of a Department, and any power, function, or duty so delegated may be delegated in whole or in part by the Secretary to such officers or agencies of the United States as he may designate, and he may authorize successive redelegations of such powers, functions, and duties.

(5) The chairman of the Board may from time to time divide the Board into divisions of one or more members, assign the members of the Board thereto, and in case of a division of more than one member, designate the chief thereof. The Board may also, by regulations or otherwise, determine the character of cases to be conducted initially by the Board through an officer or officers of, or utilized by, the Board, the character of cases to be conducted initially by the various officers and agencies authorized to exercise powers of the Board pursuant to paragraph (4), the character of cases to be conducted initially by the various divisions of the Board, and the character of cases to be conducted initially by the Board itself. The Board may review any determination by any such officer, agency, or division on its own motion, or in its discretion at the request of any contractor or subcontractor aggrieved thereby. Unless the Board upon its own motion initiates a review of such determination within 60 days from the date of such determination, or at the request of the contractor or subcontractor made within 60 days from the date of such determination initiates a review of such determination within 60 days from the date of such request, such determination shall be deemed the determination of the Board. Upon any review by the Board the Board may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the officer, agency, or division whose action is so reviewed.

[RR 801.4]

§ 1608.801–5 *Sec. 403 (e).*

(1) Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may, within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing of the notice of such order under subsection (c) (1), file a petition with The Tax Court of the United States for a redetermination thereof. Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency. The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Tax Court to finally determine the amount, if any, of excessive profits shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. For the purposes of this subsection the court shall have the same powers and duties, insofar as applicable, in respect of the contractor, the subcontractor, the Board and the Secretary, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by the Tax Court of decisions of divisions, stenographic reporting, and reports of proceedings as such court has under sections 1110, 1111, 1113, 1114, 1115 (a), 1116, 1117 (a), 1118, 1120, and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. In the case of any witness for the Board or Secretary, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board or Department available for that purpose, and in the case of any other witnesses, shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this subsection shall not operate to stay the execution of the order of the Board under subsection (c) (2).

(2) Any contractor or subcontractor (excluding a subcontractor described in subsection (a) (5) (B)) aggrieved by a determination of the Secretary made prior to the date of the enactment of the Revenue Act of 1943, with respect to a fiscal year ending before July 1, 1943, as to the existence of excessive profits, which is not embodied in an agreement with the contractor or subcontractor, may, within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the date of the enactment of the Revenue Act of 1943, file a petition with The Tax Court of the United States for a redetermination thereof, and any such contractor or subcontractor aggrieved by a determination of the Secretary made on or after the date of the enactment of the Revenue Act of 1943, with respect to any such fiscal year, as to the existence of excessive profits, which is not embodied in an agreement with the contractor or subcontractor, may, within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the date of such determination, file a petition with The Tax Court of the United States for redetermination thereof. Upon such filing such court shall have the same jurisdiction, powers, and duties, and the proceedings shall be subject to the same provisions, as in the case of a petition filed with the court under paragraph (1), except that the amendments made to this section by the Revenue Act of 1943 which are not made applicable as of April 28, 1942, or to fiscal years ending before July 1, 1943, shall not apply.

[RR 801.5]

§ 1608.801–6 *Sec. 403 (f).*

For repricing of war contracts, see Title VIII of the Revenue Act of 1943.

[RR 801.6]

§ 1608.801–7 *Sec. 403 (g).*

If any provision of this section or the application thereof to any person or circumstance is held invalid, the remainder of the section and the application of such provision to other persons or circumstances shall not be affected thereby.

[RR 801.7]

§ 1608.801–8 *Sec. 403 (h).*

This section shall apply only with respect to profits derived from contracts with the Departments and subcontracts which are attributable to performance prior to the termination date. For the purposes of this subsection—

(1) The profits derived from any contract with a Department or subcontract which shall be deemed "attributable to performance prior to the termination date" shall be—

(A) in the case of any contract or subcontract the performance of which requires more than 12 months, or in the case of any contract or subcontract with respect to which the powers of the Board are exercised separately pursuant to subsection (c) (1) rather than on a fiscal-year basis, the portion of the profits so derived which is determined by the Board to be equal to the same percentage of the total profits so derived as the percentage of completion of the contract prior to the termination date; and

(B) in all other cases, the profits so derived which are received or accrued prior to the termination date; and

(2) The term "termination date" means—

(A) December 31, 1944; or

(B) If the President not later than December 1, 1944, finds and by proclamation declares that competitive conditions have not been restored, such date not later than June 30, 1945, as may be specified by the President in such proclamation as the termination date; or

(C) If the President, not later than June 30, 1945, finds and by proclamation declares that competitive conditions have been restored as of any date within six months prior to the issuance of such proclamation, the date as of which the President in such proclamation declares that competitive conditions have been restored;

except that in no event shall the termination date extend beyond the date proclaimed by the President as the date of the termination of hostilities in the present war, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

[RR 801.8]

§ 1608.801–9 *Sec. 403 (i).*

(1) The provisions of this section shall not apply to—

(A) any contract by a Department with any other department, bureau, agency, or governmental corporation of the United States or with any Territory, possession, or State or any agency thereof or with any foreign government or any agency thereof; or

(B) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use; or

(C) any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or has not an established market in its raw or natural state, in the first form or state, beyond the raw or natural state in which it is customarily sold or in which it has an established market. The term "agricultural commodity" as used herein shall include but shall not be limited to—

(i) commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugar cane, and sugar beets;

(ii) natural resins, saps and gums of trees;

(iii) animals such as cattle, hogs, poultry, and sheep, fish and other marine life, and

the produce of live animals, such as wool, eggs, milk and cream; or

(D) any contract or subcontract with an organization exempt from taxation under section 101 (6) of the Internal Revenue Code; or

(E) any contract with a Department, awarded as a result of competitive bidding, for the construction of any building, structure, improvement, or facility; or

(F) any subcontract, directly or indirectly under a contract or subcontract to which this section does not apply by reason of this paragraph.

(2) The Board is authorized by regulation to interpret and apply the exemptions provided for in paragraph (1) (A), (B), (C), (E), and (F) and interpret and apply the definition contained in subsection (a) (7).

(3) In the case of a contractor or subcontractor who produces or acquires the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, and processes, refines, or treats such a product to and beyond the first form or state suitable for industrial use, or who produces or acquires an agricultural product and processes, refines, or treats such a product to and beyond the first form or state in which it is customarily sold or in which it has an established market, the Board shall prescribe such regulations as may be necessary to give such contractor or subcontractor a cost allowance substantially equivalent to the amount which would have been realized by such contractor or subcontractor if he had sold such product at such first form or state. Notwithstanding any other provisions of this section there shall be excluded from consideration in determining whether or not a contractor or subcontractor has received or accrued excessive profits that portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory. For the purposes of this paragraph the term "excess inventory" means inventory of products, hereinbefore described in this paragraph, acquired by the contractor or subcontractor in the form or at the state in which contracts for such products on hand or on contract would be exempted from this section by subsection (1) (1) (B) or (C), which is in excess of the inventory reasonably necessary to fulfill existing contracts or orders. That portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory, and the method of excluding such portion of profits from consideration in determining whether or not the contractor or subcontractor has received or accrued excessive profits, shall be determined in accordance with regulations prescribed by the Board. In the case of a renegotiation with respect to a fiscal year ending prior to July 1, 1943, the portion of the profits, derived from contracts with the Departments and subcontracts, attributable to the increment in value of the excess inventory shall (to the extent such portion does not exceed the excessive profits determined) be credited or refunded to the contractor or subcontractor, and in case the determination of excessive profits was made prior to the date of the enactment of the Revenue Act of 1943, such credit or refund shall be made notwithstanding such determination is embodied in an agreement with the contractor or subcontractor, but in either case such credit or refund shall be made only if the contractor or subcontractor, within ninety days after the date of the enactment of the Revenue Act of 1943, files a claim therefor with the Secretary concerned.

(4) The Board is authorized, in its discretion, to exempt from some or all of the provisions of this section—

(A) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

(B) any contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of agreements for personal services, for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, of leases and license agreements, and of agreements where the period of performance under such contract or subcontract will not be in excess of thirty days;

(C) any contract or subcontract or performance thereunder during a specified period or periods, if in the opinion of the Board, the provisions of the contract are otherwise adequate to prevent excessive profits;

(D) any contract or subcontract for the making or furnishing of a standard commercial article, if, in the opinion of the Board, competitive conditions affecting the sale of such article are such as will reasonably protect the Government against excessive prices;

(E) any contract or subcontract, if, in the opinion of the Board, competitive conditions affecting the making of such contract or subcontract are such as are likely to result in effective competition with respect to the contract or subcontract price; and

(F) any subcontract or group of subcontracts not otherwise exempt from the provisions of this section, if, in the opinion of the Board, it is not administratively feasible in the case of such subcontract or in the case of such group of subcontracts to determine and segregate the profits attributable to such subcontract or group of subcontracts from the profits attributable to activities not subject to renegotiation.

The Board may so exempt contracts and subcontracts both individually and by general classes or types.

[RR 801.9]

§ 1608.801–10 *See 403 (j).*

Nothing in sections 109 and 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203) or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a Department or the Board during the period (or a part thereof) beginning May 27, 1940, and ending six months after the termination of hostilities in the present war, as proclaimed by the President, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a Department.

[RR 801.10]

§ 1608.801–11 *Sec. 403 (k).*

Nothing in this section shall be construed to limit or restrict any authority or discretion of the Secretary of a Department under the provisions of any other law.

[RR 801.11]

§ 1608.801–12 *Sec. 403 (l).*

This section may be cited as the "Renegotiation Act."

[RR 801.12]

§ 1608.801–13 *Effective date of section 403.* Section 701 (d) of the Revenue Act of 1943 provides:

The amendments made by subsection (b) shall be effective only with respect to the fiscal years ending after June 30, 1943, except that (1) the amendments inserting subsections (a) (4) (C), (a) (4) (D), (i) (1) (C), (i) (1) (D), (i) (1) (F), (i) (3), and (l) in section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, shall be effective as if such amendments and subsections had been a part of section 403 of such Act on the date of its enactment, and (2) the amendments adding subsection (d) and (e) (2) to section 403 of such Act shall be effective from the date of the enactment of this Act.

[RR 801.13]

§ 1608.801–14 *Military Appropriation Act, 1945.* Section 23 of the Military Appropriation Act, 1945, states as follows:

The application to the requirements of the War Department by the reappropriation of unexpended balances of prior years shall be deemed to be a compliance with so much of paragraph (2) of subsection (c) of section 403, as amended, of the Sixth Supplemental National Defense Appropriation Act, 1942, as reads: "Upon the withholding of any amount of excessive profits or the crediting of any amount of excessive profits against amounts otherwise due a contractor, the Secretary shall certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury."

[RR 801.14]

§ 1608.802 *Section 3806 of the Internal Revenue Code (as amended by section 701 (c) of the Revenue Act of 1943.* Sec. 3806. Mitigation of effect of renegotiation of war contracts or disallowance of reimbursement.

[RR 802]

§ 1608.802–1 *Section 3806 (a); reduction for prior taxable year.*

(1) *Excessive profits eliminated for prior taxable year.* In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for a taxable year (hereinafter referred to as "prior taxable year") is eliminated and, in a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of excessive profits eliminated or the amount of excessive profits eliminated is applied as an offset against other amounts due the taxpayer, the part of the contract or subcontract price which was received or was accrued for the prior taxable year shall be reduced by the amount of excessive profits eliminated. For the purposes of this section—

(A) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

(B) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a

contract, and any profits derived from one or more such contracts or subcontracts.

(C) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by subsection (a) of Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended.

(2) *Reduction of reimbursement for prior taxable year.* In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and, in a taxable year beginning after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed or the amount disallowed is applied as an offset against other amounts due the taxpayer, the amount of the reimbursement of the taxpayer under the contract for the taxable year in which the reimbursement for such item was received or was accrued (hereinafter referred to as "prior taxable year") shall be reduced by the amount disallowed.

(3) *Deduction disallowed.* The amount of the payment, repayment, or offset described in paragraph (1) or paragraph (2) shall not constitute a deduction for the year in which paid or incurred.

(4) *Exception.* The foregoing provisions of this subsection shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the Commissioner that a different method of accounting or the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under such method, which for the purposes of subsections (b) and (c) shall be considered a prior taxable year.

[RR 802.1]

§ 1608.802-2 *Section 3806 (b); Credit against repayment on account of renegotiation or allowance.*

(1) *General rule.* There shall be credited against the amount of excessive profits eliminated the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2B, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (1) of subsection (a); and there shall be credited against the amount disallowed the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2B, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (2) of subsection (a).

(2) *Special rules as to individuals for 1942 and 1943.* In the case of an individual subject to the provisions of sections 58, 59, and 60 of Chapter 1 and to the provisions of section 6 of the Current Tax Payment Act of 1943—

(A) No credit shall be allowed under paragraph (1) of this subsection for any amount by which the tax for the taxable year 1942 under Chapter 1 is decreased by the application of paragraph (1) or paragraph (2) of subsection (a). If, contrary to the foregoing provisions of this subparagraph, any part of the amount shown on the return as such tax for the taxable year 1942 or any part of an amount assessed as such tax for such year or as an addition to such tax is credited against excessive profits eliminated for such year or against an amount disallowed for such year, the individual shall pay into the Treasury an amount equal to the amount of such credit, and if such amount is not voluntarily paid, the Commissioner shall, despite the provisions of the Current Tax Payment Act of 1943, collect the same under the usual methods employed to collect the tax imposed by Chapter 1. For the purposes of this section the amount required by this subparagraph to be paid into the Treasury shall be considered as an amount of excessive profits eliminated for the taxable year 1942, or an amount disallowed for such year, as the case may be; and despite the provisions of the Current Tax Payment Act of 1943, the payment of such amount shall not be considered as payment on account of the tax or estimated tax for the taxable year 1943.

(B) In the case of a renegotiation with respect to the taxable year 1942 which is made after the enactment of the Current Tax Payment Act of 1943 and prior to the date on which the individual files his return for the taxable year 1943 and with respect to which payment or repayment of the excessive profits eliminated or any part thereof is deferred by agreement, if the amount shown as the tax on the return for the taxable year 1943 reflects the application of paragraph (1) of subsection (a) with respect to the taxable year 1942 and is computed in accordance with the provisions of section 6 of the Current Tax Payment Act of 1943, there shall be credited against the excessive profits eliminated for the taxable year 1942 the amount by which the sum of the estimated tax previously paid for the taxable year 1943 and the payments on account of the taxable year 1942 which are treated as payments on account of the estimated tax for the taxable year 1943, exceeds the amount shown as the tax on the return for the taxable year 1943: *Provided*, That the amount allowable as a credit under the foregoing provisions of this subparagraph shall not exceed (i) the amount of credit of overpayment of tax provided for in the agreement deferring payment or repayment of excessive profits eliminated or (ii) the amount of excessive profits eliminated for the taxable year 1942 which, at the time the credit is allowed, have not been paid or repaid to the United States or an agency thereof or applied as an offset against other amounts due the individual. If any credit is allowed under this subparagraph, no other credit or refund under the internal revenue laws shall be made on account of the amount so allowed with respect to the taxable year 1943. Any credit of overpayment of tax allowed pursuant to the agreement deferring payment or repayment of excessive profits eliminated shall be considered as a credit allowed under this subparagraph.

(C) Except as prevented by the provisions of the foregoing subparagraph (B), there shall be credited against the amount of excessive profits eliminated for the taxable year 1942 the amount by which the tax for the taxable year 1943 as computed under section 6 of the Current Tax Payment Act of 1943 is decreased by reason of the application of paragraph (1) of subsection (a) with respect to the taxable year 1942; and there shall be credited against the amount disallowed for the taxable year 1942 the amount by which the tax for the taxable year 1943 as computed under section 6 of the Current Tax Payment Act of 1943 is decreased by reason of the application of paragraph (2) of subsection (a) with respect to the taxable year 1942.

For the purposes of the foregoing provisions of this paragraph, the terms "taxable year 1942" and "taxable year 1943" shall have the meanings assigned to them by section 6 (g) of the Current Tax Payment Act of 1943.

(3) *Credit for barred year.* If at the time of the payment, repayment, or offset described in paragraph (1) or paragraph (2) of subsection (a), refund or credit of tax under Chapter 1, Chapter 2A, Chapter 2B, Chapter 2D, or Chapter 2E, for the prior taxable year, is prevented (except for the provisions of Section 3801) by any provision of the internal-revenue laws other than Section 3761, or by rule of law, the amount by which the tax for such year under such chapters is decreased by the application of paragraph (1) or paragraph (2) of subsection (a) shall be computed under this paragraph. There shall first be ascertained the tax previously determined for the prior taxable year.[1] The amount of the tax previously determined shall be the excess of—(1) the sum of (A) the amount shown as the tax by the taxpayer upon his return (determined as provided in section 271 (b) (1) and (3)), if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus (B) the amounts previously assessed (or collected without assessment) as a deficiency, over—(2) the amount of rebates, as defined in section 271 (b) (2), made. There shall then be ascertained the decrease in tax previously determined which results solely from the application of paragraph (1) or paragraph (2) of subsection (a) to the prior taxable year. The amount so ascertained, together with any amounts collected as additions to the tax or interest, as a result of paragraph (1) or paragraph (2) of subsection (a) not having been applied to the prior taxable year shall be the amount by which such tax is decreased.

(4) *Interest.* In determining the amount of the credit under this subsection no interest shall be allowed with respect to the amount ascertained under paragraph (1) or paragraph (2); except that if interest is charged by the United States or the agency thereof on account of the disallowance for any period before the date of the payment, repayment, or offset, the credit shall be increased by an amount equal to interest on the amount ascertained under either such paragraph at the same rate and for the period (prior to the date of the payment, repayment, or offset) as interest is so charged.

[RR 802.2]

§ 1608.802-3 *Section 3806 (c).*

Credit in lieu of other credit or refund. If a credit is allowed under subsection (b) with respect to a prior taxable year no other credit or refund under the internal-revenue laws founded on the application of subsection (a) shall be made on account of the amount allowed with respect to such taxable year. If the amount allowable as a credit under sub-

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[1] The third sentence of section 3806 (b) (3) was amended to read as shown in the text by the Individual Income Tax Act of 1944, sec. 14 (b). The Individual Income Tax Act of 1944, sec. 14 (e) provides as follows:

"The amendment made by subsection (b) to section 3806 (b) (3) of such Code shall, for the purposes of such section, be applicable in the determination of a tax previously determined only if such tax is for a taxable year beginning after December 31, 1942."

Prior to such amendment by the Individual Income Tax Act of 1944, sec. 14, the third sentence of IRC, section 3806 (b) (3) read as follows:

"The amount of the tax previously determined shall be (A) the tax shown by the taxpayer upon his return for such taxable year, increased by the amounts previously assessed (or collected without assessment) as deficiencies, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or (B) if no amount was shown as the tax by such taxpayer upon his return, or if no return was made by such taxpayer, then the amounts previously assessed (or collected without assessment) as deficiencies, but such amounts previously assessed, or collected without assessment, shall be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax."

The Individual Income Tax of 1944 is Public Law 315—78th Congress, Chapter 210—2nd Session.

section (b) exceeds the amount allowed under such subsection, the excess shall, for the purposes of the internal-revenue laws relating to credit or refund of tax, be treated as an overpayment for the prior taxable year which was made at the time the payment, repayment, or offset was made.

[RR 802.3]

§ 1608.803 *Title XIII of Second War Powers Act, 1942.* [RR 803]

§ 1608.803–1 *Statutory provision.*

SECOND WAR POWERS ACT, 1942, ACT OF MARCH 27, 1942, P. L. 507

TITLE XIII

SEC. 1301. The provisions of section 10 (1) of an Act approved July 2, 1926 (44 Stat. 787; 10 U. S. C. 310 (1)) (giving the Government the right to inspect the plant and audit the books of certain Contractors), shall apply to the plant, books, and records of any contractor with whom a defense contract has been placed at any time after the declaration of emergency on September 8, 1939, and before the termination of the present war: *Provided*, That, for the purpose of this title, the term "defense contract" shall mean any contract, subcontract, or order placed in furtherance of the defense or war effort: *And provided further*, That the inspection and audit authorized herein, and the determination whether a given contract is a "defense contract" as defined above, shall be made by a governmental agency or officer designated by the President, or by the Chairman of the War Production Board.

SEC. 1302. For the purpose of obtaining any information or making any inspection or audit pursuant to section 1301, any agency acting hereunder, or the Chairman of the War Production Board, as the case may be, may administer oaths and affirmations and may require by subpena or otherwise the attendance and testimony of witnesses and the production of any books or records or any other documentary or physical evidence which may be deemed relevant to the inquiry. Such attendance and testimony of witnesses and the production of such books, records, or other documentary or physical evidence may be required at any designated place from any State, Territory, or other place subject to the jurisdiction of the United States: *Provided*, That the production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person resides or transacts business, if, prior to the return date specified in the subpena issued with respect thereto, such person furnishes such agency or the Chairman of the War Production Board, as the case may be, with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with such agency or the Chairman of the War Production Board, as the case may be, as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. No person shall be excused from attending and testifying or from producing any books, records, or other documentary evidence or certified copies thereof or physical evidence in obedience to any such subpena, or in any action or proceeding which may be instituted under this section, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be subject to prosecution and punishment or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that any such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. Such agency or the Chairman of the War Production Board shall not publish or disclose any information obtained under this title which such agency or the Chairman of the War Production Board deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless such agency or the Chairman of the War Production Board determines that the withholding thereof is contrary to the interest of the national defense and security; and anyone violating this provision shall be guilty of a felony and upon conviction thereof shall be fined not exceeding $1,000, or be imprisoned not exceeding two years, or both.

SEC. 1303. In case of contempt by, or refusal to obey a subpena issued to, any person, any agency acting hereunder, or the Chairman of the War Production Board, as the case may be, may invoke the aid of any court of the United States within the jurisdiction of which any investigation or proceeding under this title is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other documentary or physical evidence. And such court may issue an order requiring such person to give testimony or produce any books, records, or other documentary or physical evidence touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, records, or other documentary or physical evidence, if in his power to do so, in obedience to the subpena of any agency acting hereunder, or the Chairman of the War Production Board, as the case may be, shall be guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not more than $5,000, or to imprisonment for a term of not more than one year, or both.

SEC. 1304. For purposes of this title the term "person" shall include any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

[RR 803.1]

§ 1608.803–2 *Section 310(l) of Title 10, Chapter 18, U. S. Code.*

(l) The manufacturing plant, and books, of any contractor for furnishing or constructing aircraft, aircraft parts, or aeronautical accessories, for the War Department or the Navy Department, or such part of any manufacturing plant as may be so engaged, shall at all times be subject to inspection and audit by any person designated by the head of any executive department of the Government.

[RR 803.2]

§ 1608.803–3 *Executive Order No. 9127.*

REGULATIONS UNDER TITLE XIII OF THE SECOND WAR POWERS ACT, 1942

By virtue of the authority vested in me by the Constitution and laws of the United States, and particularly by Title I of the First War Powers Act, 1941, and Title XIII of the Second War Powers Act, 1942, as President of the United States and Commander in Chief of the Army and Navy of the United States, and in order to prevent the accumulation of unreasonable profits, to avoid waste of Government funds, and to implement other measures which have been undertaken to forestall price rises and inflation, it is hereby ordered as follows:

1. I hereby designate the War Production Board, the War Department, the Navy Department, the Treasury Department, the United States Maritime Commission, and the Reconstruction Finance Corporation as the governmental agencies authorized to inspect the plant and to audit the books and records, as provided by Title XIII of the said Second War Powers Act, 1942. Such inspection and audit and the determination whether a given contract is a defense contract, as defined in Title XIII of the Second War Powers Act, 1942, may be made in the case of (a) any contractor with whom a defense contract has been placed by such agency, or, in the case of the Reconstruction Finance Corporation, by any corporation created or organized by it, at any time after the declaration of emergency on September 8, 1939, and before the termination of the present war, and in the case of (b) any subcontractor performing work required by any such defense contract. The Chairman of the War Production Board is authorized to issue rules and regulations and to establish policies to coordinate and govern the War Department, the Navy Department, the Treasury Department, the United States Maritime Commission, and the Reconstruction Finance Corporation in exercising the functions vested in them by this order.

2. The authority herein conferred may be exercised by the Chairman of the War Production Board, the Secretary of War, the Secretary of the Navy, the Secretary of the Treasury, the United States Maritime Commission, and the Board of Directors of the Reconstruction Finance Corporation, respectively, or in their discretion and by their direction, respectively, may be exercised also by and through any officer or officers or civilian officials of their respective departments and agencies designated by them for those purposes. The Chairman of the War Production Board, the Secretary of War, the Secretary of the Navy, the Secretary of the Treasury, the United States Maritime Commission, or the Board of Directors of the Reconstruction Finance Corporation may authorize such officer or officers or civilian officials of their respective departments or agencies to make further delegations of such powers and authority within their respective departments and agencies.

3. In inspecting any plant engaged in producing, manufacturing, processing, constructing, altering, or repairing any defense article of a secret, confidential, or restricted nature, or which is produced, manufactured, processed, constructed, altered, or repaired in accordance with or under any secret process, formula, patent, or invention, and in auditing the books and records in connection with any such defense contract, such inspection shall be regarded as secret, confidential, or restricted, as the case may be, and all reports, records, papers, documents, and writings relating to such inspection or audit shall be marked or stamped as secret, confidential, or restricted, as the case may be, and shall be handled in accordance with regulations prescribed and in force in the department or agency concerned relating to the handling of secret, confidential, or restricted matters, reports, records, papers, documents, and writings.

4. The power to administer oaths or affirmations and to issue subpoenas for the attendance of witnesses or the production of books, records, or other documentary or physical evidence deemed relevant to the inquiry, conferred by section 1302, and, through the Department of Justice, the power to invoke the aid of any court of the United States, conferred by section 1303, Title XIII, of said Second War Powers Act, may be exercised, performed, or carried out by the Chairman of the War Production Board, the Secretary of War, the Secretary of the Navy, the Secretary of the Treasury, any member of the United States Maritime Commission, or the Chair-

man of the Board of Directors of the Reconstruction Finance Corporation, as the case may be, or by such other officer or officers or civilian officials as may be authorized, empowered or directed by any of them so to do for his respective department or agency.

5. Nothing herein shall affect or limit the authority and power conferred upon or granted to the Chairman of the War Production Board by Title XIII of said Second War Powers Act, 1942.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
April 10, 1942.

[RR 803.3]

§ 1608.804 *Repricing of war contracts.* Title VIII of the Revenue Act of 1943, enacted February 25, 1944, provides:

[RR 804]

§ 1608.804–1 *Section 801; repricing of war contracts.*

(a) As used in this section the terms "Department", "Secretary" and "article" shall have the same meanings as in subsection (a) of the Renegotiation Act.

(b) When the Secretary of a Department deems that the price of any article or service of any kind, which is required by his Department or directly or indirectly required, furnished, or offered in connection with, or as a part of, the performance or procurement of any contract with his Department or of any subcontract thereunder, is unreasonable or unfair, the Secretary may require the person furnishing or offering to furnish such article or service to negotiate to fix a fair and reasonable price therefor. If such person refuses to agree to a price for such article or service which the Secretary considers fair and reasonable, the Secretary by order may fix the price payable to such person for furnishing such article or service after the effective date of the order, whether under existing agreements or otherwise. The order may prescribe the period during which the price so fixed shall be effective and such other terms and conditions as the Secretary deems appropriate.

(c) Any person aggrieved by an order fixing a price under this section may sue the United States in any appropriate court. In such suit, such person shall be entitled to recover from the United States the amount of any difference between (1) fair and just compensation for the articles and services furnished under the terms of the order and (2) the price fixed for such articles and services by the order; but if the prices so fixed by the order are found to exceed fair and just compensation for such articles and services, such person shall be liable to the United States in such suit for the amount of this excess. Any such suit shall be brought within six months after the order by the Secretary on which it is based, or after the expiration of the period or periods specified in such order, whichever last occurs. Such a suit shall not stay the order involved.

(d) Whenever any person wilfully refuses, or wilfully fails to furnish any such articles or services at the price fixed by an order of the Secretary in accordance with this section, the President shall have power to take immediate possession of the plant or plants of such person and to operate them in accordance with section 9 of the Selective Training and Service Act of 1940, as amended.

(e) The authority and discretion herein conferred upon the Secretary of each Department may be delegated in whole or in part by him to such individuals or agencies as he may designate in his Department, or in any other Department with the consent of the Secretary of that Department, and he may authorize such individuals or agencies to make further delegations of such authority and discretion.

(f) Every purchase order or agreement, or contract to make or furnish any article or service of any kind, which is required by a Department or directly or indirectly required, furnished, or offered in connection with, or as a part of, the performance or procurement of any contract with such Department or of any subcontract thereunder, shall, if made thirty days or more after the date of the enactment of this Act, be deemed to contain a provision under which the person making or furnishing such article or service agrees that notwithstanding other provisions of the purchase order, agreement, or contract, he shall be entitled to receive for such article or service only the fair and just compensation provided for in subsection (c).

[RR 804.1]

§ 1608.804–2 *Section 802; effective date.*

(a) Section 801 shall be effective from the date of the enactment of this Act.

(b) Section 801 shall not apply to any contract with a Department or any subcontract made after the date proclaimed by the President as the date of the termination of hostilities in the present war or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

[RR 804.2]

§ 1608.805 *Executive orders relating to the War Shipping Administration.*

EXECUTIVE ORDER NO. 9054 ISSUED FEBRUARY 7, 1942 (AS AMENDED BY EXECUTIVE ORDER NO. 9244 ISSUED SEPTEMBER 16, 1942)

ESTABLISHING A WAR SHIPPING ADMINISTRATION IN THE EXECUTIVE OFFICE OF THE PRESIDENT AND DEFINING ITS FUNCTIONS AND DUTIES

By virtue of the authority vested in me by the Constitution and Statutes of the United States, including the First War Powers Act, 1941, approved December 18, 1941, as President of the United States and Commander in Chief of the Army and Navy, and in order to assure the most effective utilization of the shipping of the United States for the successful prosecution of the war, it is hereby ordered:

1. There is established within the Office for Emergency Management of the Executive Office of the President a War Shipping Administration under the direction of an Administrator who shall be appointed by and responsible to the President.

2. The Administrator shall perform the following functions and duties:

(a) Control the operation, purchase, charter, requisition, and use of all ocean vessels under the flag or control of the United States, except (1) combatant vessels of the Army, Navy, and Coast Guard; fleet auxiliaries of the Navy; and transports owned by the Army and Navy; and (2) vessels engaged in coastwise, intercoastal, and inland transportation under the control of the Director of the Office of Defense Transportation.

(b) Allocate vessels under the flag or control of the United States for use by the Army, Navy, other Federal departments and agencies, and the governments of the United Nations.

(c) Provide insurance and reinsurance pursuant to the Merchant Marine Act, 1920, as amended, Merchant Marine Act, 1936, as amended, and the Act of June 6, 1941, (Public Law 101, 77th Congress).[1]

(d) Establish the conditions to be complied with as a condition to receiving priorities and other advantages as provided in Public Law. 173, Seventy-seventh Congress, approved July 14, 1941.

(e) Represent the United States Government in dealing with the British Ministry of War Transport and with similar shipping agencies of nations allied with the United States in the prosecution of the war, in matters related to the use of shipping.

(f) Maintain current data on the availability of shipping in being and under construction and furnish such data on request to the Departments of War and the Navy, and other Federal departments and agencies concerned with the import or export of war materials and commodities.

(g) Keep the President informed with regard to the progress made in carrying out this Order and perform such related duties as the President shall from time to time assign or delegate to him.

(h) Exercise the power, authority and discretion conferred upon the President by Section 902 (e) of the Merchant Marine Act of 1936, as amended.[2]

(i) With respect to all matters for which the Administrator may be responsible under terms of the Order, exercise in like manner as the United States Maritime Commission, all of the functions, powers and duties with respect to contracts and payments, and the audit of books and records, conferred upon the Commission by Executive Order No. 9001, December 27, 1941, and Executive Order No. 9127, April 10, 1942, and Section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public Law 528, 77th Congress).[2]

(j) Exercise in like manner as the United States Maritime Commission all the functions, powers, authority and discretion with regard to the acquisition (including requisition) and disposition of property conferred upon the United States Maritime Commission by the Executive Orders No. 8942, No. 9138, and No. 9129, dated November 19, 1941, April 17, 1942, and April 13, 1942, respectively.[2]

(k) Exercise in like manner as the United States Maritime Commission all the functions, powers, duties, authority and discretion conferred on the Commission by the Suits in Admiralty Act approved March 9, 1920 (41 Stat. 525, Chapter 95).[2]

3. The functions, duties and powers conferred by law upon the United States Maritime Commission with respect to the operation, purchase, charter, insurance, repair, maintenance, and requisition of vessels and facilities required for the operation thereof and the issuance of warrants with respect thereto under the Merchant Marine Act, 1936, as amended, the Act of June 6, 1941 (Public Law 101, 77th Congress, the Act of July 14, 1941 (Public Law 173, 77th Congress), the Act of May 2, 1941 (Public Law 46, 77th Congress), the Act of October 16, 1941 (Public Law 274, 77th Congress), as amended, First Supplemental National Defense Appropriation Act, 1942 (Public Law 247, 77th Congress), the First War Powers Act, 1941, the Act of February 6, 1941 (Public Law 5, 77th Congress), Section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public Law 528, 77th Congress), Executive Order No. 8771, dated June 6, 1941, as amended, Executive Order No. 9001, dated December 27, 1941, Executive Order No. 9127, dated April 10, 1942, and under any other provisions of law, including Executive Orders, are hereby transferred to the Administrator; and such part of the existing personnel of the United States Maritime Commission, together with such records and public property as the Administrator may deem necessary to the full exercise of his functions and duties prescribed by this Order are hereby assigned to the War Shipping Administration.[3]

4. Vessels under the control of the War Shipping Administration shall constitute a pool to be allocated by the Administrator for use by the Army, Navy, other Federal departments and agencies, and the governments of the United Nations. In allocating the use of such vessels, the Administrator shall comply with strategic military requirements.

5. For the purpose of carrying out the provisions of this Order, the Administrator

For footnotes, see end of § 1608.805.

is authorized to utilize the services of available and appropriate personnel of the United States Maritime Commission, the War and Navy Departments, and other government departments and agencies which are engaged in activities related to the operation of shipping. The Administrator may require, and other government departments and agencies are directed to make available to the Administrator, such information, reports and statistics regarding shipping requirements as the Administrator may deem necessary to enable him properly to determine and administer the allocation of vessels and space thereon, except in regard to vessels of the Army and Navy excluded in Section 2 and those engaged on special secret military missions.[4]

6. In the discharge of his responsibilities the Administrator shall collaborate with existing military, naval, and civil departments and agencies of the government which perform wartime functions connected with transportation overseas, in order to secure the most effective utilization of shipping in the prosecution of the war. The Administrator particularly shall maintain close liaison with the Departments of War and the Navy through the Assistant Chief of Staff for Transportation and Supply and the Director, Naval Transportation Service, respectively, with respect to the movement of military and naval personnel and supplies; and with the Director of the Office of Defense Transportation with respect to the relation of overseas transportation to coast-wise and intercoastal shipping and inland transportation. With respect to the overseas transportation of cargoes essential to the war production effort and the civilian economy the Administrator shall be guided by schedules transmitted to him by the Chairman of the War Production Board prescribing the priority of movement of such commodities and materials.

7. The Administrator may establish committees or groups of advisors representing two or more departments of the Federal government, or agencies or missions of governments allied with the United States in the prosecution of the war, as the case may require to carry out the purposes of this Order. Further, he may appoint representatives to such joint missions or boards dealing with matters within the scope of this Order as may be established with governments associated with the United States in the prosecution of the war.

8. Within the purposes of this Order, the Administrator is authorized to issue such directives concerning shipping operations as he may deem necessary or appropriate, and his decisions shall be final with respect to the functions and authorities so vested in him. The Administrator may exercise the powers, authority and discretion conferred upon him by this Order through such officials or agencies and in such manner as he may determine.

9. The Administrator is further authorized within the limits of such funds as may be allocated, transferred, or appropriated to the War Shipping Administration to employ necessary personnel and make provisions for necessary supplies, facilities, and services. So much of the unexpended balances of appropriations, allocations, or other funds available (including funds and contract authority available for the fiscal year ending June 30, 1942) for the use of the United States Maritime Commission in the exercise of the functions transferred to the Administrator and the War Shipping Administration, as the Director of the Bureau of the Budget with the approval of the President shall determine, shall be transferred to the War Shipping Administration for use in carrying out the functions and authority transferred to the Administrator and the War Shipping Administration pursuant to the provisions of this Order. In determining the amounts to be transferred from the United States Maritime Commission, the Director of the Bureau of the Budget may include amounts necessary to provide for the liquidation of obligations previously incurred by the United States Maritime Commission against such appropriations, allocations or other funds prior to the transfer: *Provided*, That the use of the unexpended appropriations, allocations or other funds transferred by this Section shall be subject to the provisions of Section 3 of the First War Powers Act, 1941.

Any provisions of pertinent Executive Orders conflicting with this Order are hereby superseded.[5]

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
September 16, 1942.

[RR 805]

§ 1608.806 *Tax Court rules.*

THE TAX COURT OF THE UNITED STATES

ADDITIONS TO THE RULES OF PRACTICE, EDITION OF FEB. 9, 1943.

PROMULGATED MARCH 28, 1944.

RULE 64. *Renegotiation of War Contracts Cases.*

I. Except as otherwise prescribed by this Rule, proceedings for the redetermination of excessive profits under the Renegotiation Act[6] shall be governed by the existing Rules of Practice before this Court. Where any of the existing Rules or the matter contained in the Appendix thereto refer to the Commissioner, such Rules and the matter in the Appendix, when applied to a proceeding for the redetermination of excessive profits under the Renegotiation Act, shall refer to the War Contracts Price Adjustment Board or to the Secretary as defined and used in that Act. Similarly references to the taxpayer shall refer to the contractor or subcontractor; references to tax shall refer to profits under a contract or subcontract subject to renegotiation, or to excessive profits thereunder, dependent upon context; and references to the determination of a deficiency, or a notice of such determination, shall refer to the order of the Board or the Secretary determining the amount of excessive profits.

II. A proceeding for the redetermination of excessive profits under the Renegotiation Act shall be initiated by the filing of a petition, as provided in Rules 4, 5, 7, and 8. (See Form No. 2, Appendix 1.)

In proceedings initiated under section 403 (e) (1) of the Act, the War Contracts Price Adjustment Board shall be shown as the respondent. In proceedings initiated under section 403 (e) (2) of the Act, the Secretary as referred to in that section shall be shown as the respondent.

The petition shall be complete in itself so as fully to state the issues. It shall contain:

(a) A caption in the following form:

THE TAX COURT OF THE UNITED STATES
Docket No. ____

Petitioner,
v.

Respondent.

(b) Proper allegations showing jurisdiction in the Court.

(c) A statement of the amount of excessive profits determined by the Board or the Secretary, as the case may be, the period for which determined and the amount thereof in controversy. If the determination of excessive profits were made on the basis of a specific contract or contracts, the petition shall identify the contract or contracts and shall state the period covered thereby.

(d) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Board or the Secretary in the determination of excessive profits. Each assignment of error shall be numbered.

(e) Clear and concise numbered statements of the facts upon which the petitioner relies as sustaining the assignments of error. The allegations of fact shall contain a statement of the amount received or accrued during the period in question under the contracts or subcontracts subject to renegotiation, the costs paid or incurred with respect thereto and the profits derived therefrom, the type and character of business done, and any other facts pertinent to a determination of the errors alleged.

(f) A prayer, setting forth relief sought by the petitioner.

(g) The signature of the petitioner or that of his counsel. (See Rule 4.)

(h) A verification by the petitioner in accordance with the applicable provision of subsection (h) of Rule 6.

(i) A copy of the order of the Board or of the Secretary, as the case may be, determining the amount of excessive profits, which order forms the basis for the initiation of the proceeding, shall be appended to the petition. If a statement has been furnished to the petitioner by the Board or the Secretary setting forth the facts upon which the determination of excessive profits was based and the reasons for such determination, a copy of such statement shall also be appended to the petition.

III. Any Claim for the redetermination of an amount of excessive profits greater than the amount shown in the notice of determination shall be made by the respondent in his answer filed under Rule 14, or in an amendment thereto filed under Rule 17 at or before the time of the hearing.

IV. With respect to the matter covered by Rule 60, attention is directed to section 403 (e) (1) of the Renegotiation Act.

[RR 806]

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[1] Modified by Executive Order No. 9244. Previously read as follows:

c. Provide marine insurance and reinsurance against loss or damage by the risks of war as authorized by Title II of the Merchant Marine Act, 1936, as amended.

[2] Added by Executive Order 9244.

[3] Modified by Executive Order No. 9244. Previously read as follows:

3. The functions, duties, and powers conferred by law upon the United States Maritime Commission with respect to the operation, purchase, charter, insurance, repair, maintenance, and requisition of vessels, and the issuance of warrants with respect thereto, under the Merchant Marine Act of 1936 as amended, 49 Stat. 1985, Public Law 101 Seventy-Seventh Congress, approved June 6, 1941, and Executive Order 8771 issued pursuant thereto, Public Law 183, Seventy-Seventh Congress, approved July 14, 1941, are hereby transferred to the Administrator; and such part of existing personnel of the United States Maritime Commission together with such records and public property as the Administrator may deem necessary to the full exercise of his functions and duties prescribed by this Order are hereby assigned to the War Shipping Administration.

[4] Modified by Executive Order No. 9244. Previously read as follows:

5. For the purpose of carrying out the provisions of this Order, the Administrator is authorized to utilize the services of available and appropriate personnel of the United States Maritime Commission, the War and Navy Departments, the Bureau of Marine Inspection and Navigation of the Department of Commerce, and other government departments and agencies which are engaged in activities related to the operation of shipping.

[5] Section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended by section 701, Revenue Act of 1943.

§ 1608.807 *Legal rate of interest in absence of agreement; District of Columbia.*

The rate of interest in the District upon the loan or forbearance of any money, goods, or things in action, and the rate to be allowed in judgments and decrees, in the absence of express contract as to such rate of interest, shall be six dollars upon one hundred dollars for one year, and at that rate for a greater or less sum or for a longer or shorter time: *Provided*, That interest, when authorized by law, on judgments against the District of Columbia, shall be at the rate of not exceeding 4 per centum per annum. (Mar. 3, 1901, 31 Stat. 1377, ch. 854, 1178; July 1, 1902, 32 Stat. 610, ch. 1352.) (See D. C. Code sec. 28-2701.)

[RR 807]

§ 1608.808 *Proclamation 2631 specifying June 30, 1945, as the termination date of the Renegotiation Act.*

WHEREAS subsection (h) of the Renegotiation Act (section 403, as amended, of the Sixth Supplemental National Defense Appropriation Act, 1942, approved April 28, 1942 (56 Stat. 226, 245), as amended by section 701 of the Revenue Act of 1943, enacted February 25, 1944 (58 Stat. 26, 78)), provides in part:

This section shall apply only with respect to profits derived from contracts with the Departments and subcontracts which are attributable to performance prior to the termination date. For the purposes of this subsection—

* * * * *

(2) The term "termination date" means—

(A) December 31, 1944; or

(B) If the President not later than December 1, 1944, finds and by proclamation declares that competitive conditions have not been restored, such date not later than June 30, 1945, as may be specified by the President in such proclamation as the termination date

* * * * *

except that in no event shall the termination date extend beyond the date proclaimed by the President as the date of termination of hostilities in the present war, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.;

And whereas hostilities in the present war have not terminated and the continued necessity of devoting a very large proportion of the production of the nation to the successful prosecution of the present war has prevented the restoration of competitive conditions:

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by the statutory provisions above set out, (1) do hereby find and declare that competitive conditions have not been restored; and (2) do hereby specify June 30, 1945, as the termination date within the meaning of subsection (h) of the Renegotiation Act.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 14th day of November in the year of our Lord nineteen hundred and forty four, and of the Independence of the United States of America the one hundred and sixty ninth.

FRANKLIN D ROOSEVELT

By the President:

E. R. STETTINIUS, Jr.,
Acting Secretary of State.

[RR 808]

SUBPART B—DELEGATIONS OF AUTHORITY

§ 1608.821 *Delegations from War Contracts Price Adjustment Board.* [RR 821]

§ 1608.821–1 *Delegation dated February 26, 1944, to the secretaries.*

DELEGATION BY THE WAR CONTRACTS PRICE ADJUSTMENT BOARD OF POWERS, FUNCTIONS, AND DUTIES UNDER THE RENEGOTIATION ACT

FEBRUARY 26, 1944.

1. For the purpose of this delegation, the terms "Board," "Department," and "Secretary" shall have the same meaning as when used in the Renegotiation Act (hereinafter referred to as "the Act").

2. Pursuant to the provisions of subsection (d) (4) of the Act, the Board hereby delegates to each Secretary:

(a) All of the powers, functions and duties conferred upon the Board by subsections (a) (4) (B); (a) (4) (C); (a) (4) (D); (a) (5) (B); (c) (1); (c) (2); (c) (3); (c) (4); (c) (5) (B) and (h) (1) of the Act;

(b) All of the powers, functions and duties conferred upon the Board to require the furnishing of information, records and data pursuant to the provisions of subsection (c) (5) (A) of the Act, except the financial statement provided for in the first sentence of said subsection; and

(c) All of the powers, functions and duties conferred upon the Board to interpret and apply the exemptions provided for in subsection (i) (1) (A), (B), (C), (E) and (F), the definition contained in subsection (a) (7) and the provisions of subsection (i) (3) pursuant to such interpretations thereof and regulations relating thereto as may be prescribed by the Board from time to time.

The foregoing delegation of powers, functions and duties, however, shall be effective, as to each Secretary, only as to contractors and subcontractors assigned by the Board, or pursuant to its authority, to such Secretary or his Department for renegotiation.

3. Pursuant to the provisions of subsection (d) (4) of the Act, the Board hereby delegates to each Secretary the power conferred upon the Board by subsection (i) (4) of the Act to exempt, in his discretion, from some or all of the provisions of the Act, individual contracts entered into pursuant to his authority or the authority of his Department; excepting from such delegation, however, any power to exempt from any of the provisions of the Act any such contracts or subcontracts by general classes or types.[1]

4. The powers, functions and duties hereby delegated to each Secretary may be delegated in whole or in part by him to such officers or agencies of the United States as he may designate, and he may authorize successive redelegations of such powers, functions or duties.

5. Without intending to limit the powers, functions and duties hereby delegated, nevertheless, each Secretary and each officer or agency of the United States to whom any power, function or duty is delegated or redelegated hereunder, shall exercise such power, function and duty, and all authority and discretion thereunder, in accordance with such interpretations of the Act and such regulations relating thereto as are issued or adopted by the Board and in accordance with the principles, policies and procedures established by the Board. Where a determination with respect to the amount of excessive profits of a contractor or subcontractor is embodied in an agreement between the contractor or subcontractor and a duly authorized representative of the Board such agreement shall be conclusive according to its terms and shall not be subject to review by the Board or any representative of the Board. Nothing herein contained, however, shall be construed to limit the right of the Board to review determinations with respect to the amount of excessive profits made by order and not embodied in an agreement with the contractor or subcontractor concerned.

6. This delegation is subject to revocation or modification in whole or in part at any time.

7. The powers, functions and duties delegated hereby shall be effective immediately and shall be retroactive to the effective date of the Revenue Act of 1943.

By direction of the Board.

JOSEPH M. DODGE,
Chairman, War Contracts Price Adjustment Board.

[1] Subparagraph 3 superseded by § 1608.821–2.

[RR 821.1]

§ 1608.821–2 *Delegation dated November 10, 1944, to the secretaries.*

DELEGATION BY THE WAR CONTRACTS PRICE ADJUSTMENT BOARD OF EXEMPTION AUTHORITY UNDER THE RENEGOTIATION ACT

NOVEMBER 10, 1944.

1. For the purpose of this delegation, the terms "Board", "Department" and "Secretary" shall have the same meaning as when used in the Renegotiation Act of 1943 (hereinafter referred to as the "Act").

2. Pursuant to the provisions of subsection (d) (4) of the Act, the Board hereby delegates to each Secretary the power conferred upon the Board by subsection (i) (4) of the Act to exempt from some or all of the provisions of the Act, individual contracts entered into pursuant to his authority or the authority of his Department, and subcontracts under any such contracts (including subcontracts under any such contracts which are also subcontracts under contracts with other Departments); excepting from such delegation, however, any power to exempt from any of the provisions of the Act, any such contracts or subcontracts by general classes or types other than as provided in paragraph 3 hereof.

3. Pursuant to the provisions of subsection (d) (4) of the Act, the Board hereby delegates to each Secretary the power conferred upon the Board by subsection (i) (4) of the Act to exempt from some or all of the provisions of the Act any contracts or subcontracts with respect to patents or inventions, which contracts or subcontracts are license agreements, assignments, releases of, or covenants not to sue with respect to, claims for the manufacture or use of inventions, and any contracts or subcontracts for royalties charged or chargeable directly or indirectly to the United States which royalties are the subject of a royalty adjustment contract either pursuant to Public Law 768, 77th Congress, Chapter 634—2d Session, or otherwise: *Provided, however*, That each exemption made under this paragraph 3 which relates to general classes or types of contracts or subcontracts shall be limited to the contracts or subcontracts of specific contractors or subcontractors to whom amounts are or may be paid or payable under such contracts or subcontracts.

4. The powers, functions and duties hereby delegated to a Secretary may be delegated in whole or in part by him to such officers or agencies of the United States as he may designate, and he may authorize successive redelegations of such powers, functions or duties.

5. Without intending to limit the powers, functions and duties hereby delegated, nevertheless, each Secretary and each officer or agency of the United States to whom any power, function or duty is delegated or redelegated hereunder, shall exercise such power, function and duty, and all authority and discretion thereunder, in accordance with such interpretations of the Act and such regulations relating thereto as are issued or

adopted by the Board and in accordance with the principles, policies and procedures established by the Board.

6. This delegation is subject to revocation or modification in whole or in part at any time.

7. The powers, functions and duties delegated hereby shall be effective immediately and shall be retroactive to the effective date of the Revenue Act of 1943.

8. This delegation supersedes paragraph 3 of delegation dated February 26, 1944 made by the War Contracts Price Adjustment Board to the Secretaries. The authority so superseded is not withdrawn from the Secretaries but is incorporated herein. Any action under such superseded authority is not affected hereby.

By Order of the War Contracts Price Adjustment Board:

W. JOHN KENNEY,
Vice Chairman.

[RR §21.2]

SUBPART D—EXEMPTIONS

§ 1608.841 *Raw material exemption.* Pursuant to subsection (i) (2) of the 1943 act the War Contracts Board has issued the following regulation concerning the exemption of contracts and subcontracts for certain products of the kind described in subsection (i) (1) (B) of the 1943 act.

(a) The term "exempted products", as used in this section, shall mean any of the following products:

Aggregates including such items as washed or screen sand, gravel or crushed stone.

Alumina; aluminum sulfate; aluminum ingots and pigs.

Asphalt, natural.

Antimony ore, crude; antimony ore, concentrated; antimony metal; antimony oxide; antimony sulfide.

Arsenic, crude; arsenic powder; arsenious oxide (white arsenic).

Asbestos rock; asbestos fibre.

Barytes, crude crushed.

Bauxite, crude; calcined or dried bauxite; bauxite abrasive grains.

Bentonite, dried, crushed, granulated and pulverized.

Beryl ore and concentrates; beryllium oxide; beryllium metal; beryllium master alloys.

Bismuth metal.

Borax.

Cadmium flue dust; cadmium oxide; cadmium balls and slabs.

China clay; kaolin; fire clay; brick and tile made from clays other than kaolin, china and fire clay.

Chlorine and hydrogen produced directly by electrolysis of salt brine.

Chromium ore and ferrochrome; chromite not processed beyond the form or state suitable for use as a refractory; bichromates.

Coal, prepared; run-of-mine coal.

Cobalt oxide; cobalt anodes, shot and rondelles.

Columbium ore and concentrates; columbium oxide; ferrocolumbium.

Copper ore, crude; copper ore, concentrated; copper matte; blister copper; copper billets, cathodes, cakes, ingots, ingot bars, powder, slabs and wirebars.

Corundum ore and concentrates; corundum grain.

Cryolite ore and concentrates.

Diaspore; diaspore brick.

Diatomaceous silica, lump, block, brick and powder.

Dolomite; crushed dolomite.

Feldspar, crude and ground.

Ferrosilicon.

Fluorspar ore; fluorspar fluxing gravel; lump ceramic ground fluorspar; acid grades of fluorspar.

Fuller's earth.

Gas, natural, not processed or treated further than the processing or treating customarily occurring at or near the well.

Graphite ore and concentrates; flake graphite; graphite fines, lump and chip; graphite powder.

Gypsum, crude; calcined gypsum.

Indium metal.

Industrial diamonds.

Iridium metal, including ingot and powder.

Iron ore, crude; pig iron.

Kyanite ore and concentrates; kyanite brick.

Lead ore; refined lead bars, ingots and pigs; antimonial lead bars, ingots and pigs.

Limestone; crushed limestone.

Magnesite; dead burned magnesite.

Magnesium-bearing minerals, including brucite; magnesium oxide; magnesium chloride; metallic magnesium pigs and ingots.

Mercury ore; mercury metal.

Manganese ore; ferromanganese, including spiegeleisen; silicomanganese.

Mica, crude, hand-cobbed; block mica; sheet mica, including splittings; wet or dry ground mica.

Molybdenum ore and concentrates; molybdenum oxide; calcium molybdate; ferromolybdenum.

Monel ore; monel matte; monel ingots, pigs, and shot, produced from monel matte.

Natural gasoline; casinghead gasoline; residue gas.

Nickel ore and concentrates; nickel matte; nickel oxide; nickel ingots, cathodes and shot.

Oil, crude, not processed or treated further than the processing or treating customarily occurring at or near the well.

Osmium metal, including ingot and powder.

Palladium metal, including ingot and powder.

Phosphate rock; elemental phosphorus; ferrophosphorus; phosphorus pentoxide and phosphoric acid derived directly by treatment of phosphate rock; superphosphate.

Platinum ore and concentrates; platinum metal, including ingot and powder.

Pumice, lump.

Quartz crystal, raw.

Radium bromide; radium sulfate; radium gas.

Rhodium metal, including ingot and powder.

Ruthenium metal, including ingot and powder.

Salt, rock; evaporated salt; soda ash, ammonia and electrolytic caustic soda and bicarbonate of soda when derived directly by treatment of brine.

Sea shells; oyster shells; clam and reef shells.

Selenium metal.

Silver, refined, including bars, shot, powder and grains.

Sodium aluminate.

Stone, rough dimension.

Sulfur, crude.

Sulfuric acid; oleum (other than sulfuric acid or oleum produced from crude sulfur or any other product having an industrial use).

Standing timber, logs, logs sawed into length, and logs with or without bark.

Talc, crude, ground and sawed.

Tantalum ore and concentrates; tantalum double fluoride.

Tellurium metal.

Tin ore and concentrates; refined pig tin.

Titanium-bearing ores and concentrates, including ilmenite and rutile; titanium oxide; ferrotitanium; ferro carbon titanium.

Tungsten ore and concentrates; sodium tungstate; ferrotungsten; tungsten metal, including powder; tungstic oxide; tungstic acid.

Uranium ores and concentrates; uranium oxide.

Vanadium ores and concentrates; sodium vanadate; vanadium pentoxide; ferrovanadium.

Whiting; chalk lump.

Zeolites derived from Glauconite.

Zinc ores and concentrates; zinc anodes, bars, oxide, powder and slabs.

Zirconium ores and concentrates.

(b) Subject to the provisions of paragraph (c) hereof, it is determined that each of the exempted products is "the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use" within subsection (i) (1) (B) of the Renegotiation Act. The provisions of such act shall not apply to contracts and subcontracts for any of the exempted products.

(c) This determination is made under the principles set forth in § 1604.344–1 of this chapter, including paragraph (b) (4) thereof. The products listed under paragraph (a) of this section are exempt only when they represent products of a mine, oil or gas well, or other mineral or natural deposit, or timber, which have not been processed, refined or treated beyond the first form or state suitable for industrial use and are not exempt if manufactured from raw materials which do not fall within the above description or which have at some prior stage been processed, refined or treated beyond such first form or state suitable for industrial use. For example, magnesium products derived from sea water, products manufactured from the atmosphere, secondary aluminum pigs and ingots, and other similar products are not considered exempted products.

(d) This determination applies to fiscal years ending after June 30, 1943.

(e) This section may be amended from time to time, revising, amending or supplementing the list of exempted products contained in paragraph (a) hereof. [RR 841]

§ 1608.842 *Public utility exemptions.* [RR 842]

§ 1608.842–1 *Public utilities; electric power.* (a) Pursuant to subsection (i) (4) of the Renegotiation Act of 1943 (including subsection (i) (4) (B) and (i) (4) (F)) the following classes and types of contracts and subcontracts are exempt to the extent provided in this section from all of the provisions of the Renegotiation Act of 1943:

(1) Any contract or subcontract with a public utility for the delivery of electric power of less than 1,000 kilowatts of contractual demand, except that if the actual demand was 1,000 kilowatts or more at any time during any particular fiscal year, amounts received or accrued under such contract or subcontract for such fiscal year shall not be exempt from renegotiation by reason of this subparagraph (1).

(2) Any subcontract with a public utility for the delivery of electric power without regard to the contractual or actual demand, except that:

(i) If such subcontract for electric power is with a contractor having a contract with a Department providing for the reimbursement by a Department of costs of the contractor incurred under such subcontract for electric power, or

(ii) If a Department has contracted to pay or guarantee the payment of amounts payable under such subcontract for electric power,

then in either such case such subcontract for electric power shall not be exempt from renegotiation by reason of this subparagraph (2).

(b) Amounts received or accrued under any contract or subcontract with a public utility with respect to the construction or installation of facilities for the generation, transmission or distribution of electric power shall not be exempt from renegotiation by reason this section even though such contract or subcontract also calls for the delivery of electric power. [RR 842.1]

§ 1608.842–2 *Public utilities; gas.* (a) Pursuant to subsection (i) (4) of the Renegotiation Act of 1943 (including subsection (i) (4) (B) and (i) (4) (F)) the following classes and types of contracts and subcontracts are exempt to the extent provided in this section from all of the provisions of the Renegotiation Act of 1943:

(1) Any contract or subcontract with a public utility for the delivery of gas, except that if the amounts received or accrued under any such contract or subcontract during any particular fiscal year were $50,000 or more, amounts received or accrued under such contract or subcontract for such fiscal year shall not be exempt from renegotiation by reason of this subparagraph (1). (If such fiscal year is a fractional part of twelve months, the $50,000 amount shall be reduced to the same fractional part thereof for the purposes of this subparagraph (1).)

(2) Any subcontract with a public utility for the delivery of gas without regard to the amounts received or accrued thereunder during any fiscal year, except that

(i) If such subcontract for gas is with a contractor having a contract with a Department providing for the reimbursement by a Department of costs of the contractor incurred under such subcontract for gas, or

(ii) If a Department has contracted to pay or guarantee the payment of amounts payable under such subcontract for gas,

then in either such case such subcontract for gas shall not be exempt from renegotiation by reason of this subparagraph (2).

(b) Amounts received or accrued under any contract or subcontract with a public utility with respect to the construction or installation of facilities for the generation, transmission or distribution of gas shall not be exempt from renegotiation by reason of this section even though such contract or subcontract also calls for the delivery of gas. [RR 842.2]

§ 1608.842–3 *Public utilities; transportation.* Pursuant to subsection (i) (4) of the Renegotiation Act of 1943 (including subsection (i) (4) (B) and (i) (4) (F)) the following classes and types of contracts and subcontracts are exempt from all of the provisions of the Renegotiation Act of 1943:

(a) Contracts and subcontracts with common carriers to furnish transportation by railroad, motor vehicle, pipe line or air, when made at published rates or charges, fixed, approved or subject to regulations as to the reasonableness thereof by a public regulatory body, or when made at rates or charges which the Department conducting the renegotiation in its discretion shall determine to be no higher than such published rates or charges for transportation of a comparable character.

(b) Contracts and subcontracts with common carriers to furnish inland or coastal transportation by water, when made at published rates or charges, fixed, approved or subject to regulation as to the reasonableness thereof by the Interstate Commerce Commission, or when made at rates or charges which the Department conducting the renegotiation in its discretion shall determine to be no higher than such published rates or charges for transportation of a comparable character.

(c) Contracts and subcontracts with freight forwarders when made at published rates or charges, fixed, approved or subject to regulation as to the reasonableness thereof by the Interstate Commerce Commission. [RR 842.3]

§ 1608.842–4 *Public utilities; communications.* Pursuant to subsection (i) (4) of the Renegotiation Act of 1943 (including subsection (i) (4) (B) and (i) (4) (F)) the following classes and types of contracts and subcontracts are exempt from all of the provisions of the Renegotiation Act of 1943:

(a) Contracts and subcontracts with telephone, telegraph, cable and radio companies to furnish the service of transmitting messages, when made at published rates or charges, fixed, approved or subject to regulation as to the reasonableness thereof by a public regulatory body, or when made at rates or charges which the Department conducting the renegotiation in its discretion shall determine to be no higher than such published rates or charges for service of a comparable character. [RR 842.4]

§ 1608.842–5 *Public utilities; furnishing of water or removal of sewage.* (a) Pursuant to subsection (i) (4) of the Renegotiation Act of 1943 (including subsection (i) (4) (B) and (i) (4) (F)) the following classes and types of contracts and subcontracts are exempt to the extent provided in this section from all of the provisions of the Renegotiation Act of 1943:

(1) Any contract or subcontract with a public utility for the furnishing of water or the removal of sewage, except that if the amounts received or accrued under any such contract or subcontract during any particular fiscal year were $10,000 or more, amounts received or accrued under such contract or subcontract for such fiscal year shall not be exempt from renegotiation by reason of this subparagraph (1). (If such fiscal year is a fractional part of twelve months, the $10,000 amount shall be reduced to the same fractional part thereof for the purposes of this subparagraph (1)).

(2) Any subcontract with a public utility for the furnishing of water or the removal of sewage without regard to the amounts received or accrued thereunder during any fiscal year, except that:

(i) If such subcontract for water or the removal of sewage is with a contractor having a contract with a Department providing for the reimbursement by a Department of costs of the contractor incurred under such subcontract for water or the removal of sewage, or

(ii) If a Department has contracted to pay or guarantee payment of amounts payable under such subcontract for water or the removal of sewage,

then in either such case such subcontract for water or the removal of sewage shall not be exempt from renegotiation by reason of this subparagraph (2). [RR 842.5]

§ 1608.842–6 *Subcontracts.* Pursuant to subsection (i) (4) of the Renegotiation Act of 1943 (including subsections (i) (4) (B) and (i) (4) (F)) the following classes and types of contracts and subcontracts are exempt from all of the provisions of the Renegotiation Act of 1943.

(a) Subcontracts under any contracts or subcontracts exempted pursuant to §§ 1608.842–1 through 1608.842–5 inclusive. [RR 842.6]

§ 1608.842–7 *Scope of exemptions.* All of the exemptions made under §§ 1608.842–1 through 1608.842–6, inclusive, apply to contracts and subcontracts of the specified classes and types, whether heretofore or hereafter made or performed, and whether or not they contain renegotiation provisions. [RR 842.7]

§ 1608.843 *List of exempted foods.* Determination of the War Contracts Price Adjustment Board of the exemption from renegotiation of contracts and subcontracts for perishable foods under section 403 (i) (4) (B) of the Renegotiation Act of 1943.

Pursuant to the authority conferred upon the War Contracts Price Adjustment Board by section 403 (i) (4) (B) of the Renegotiation Act of 1943, concerning the exemption of contracts and subcontracts for certain perishable goods from renegotiation under the Renegotiation Act of 1943, the War Contracts Price Adjustment Board hereby determines that the foods set forth in the list attached hereto and designated as Exhibit 1 are perishable; and that, in the opinion of the Board, the profits under contracts and subcontracts for the purchase of such foods can be determined with reasonable certainty when the contract price is established; and that contracts and subcontracts, heretofore or hereafter made, for the purchase of such foods are hereby declared to be exempt from all of the provisions of the Renegotiation Act of 1943.

EXHIBIT 1

Fresh fruits: Apples, apricots, bananas, berries (blue and black), cantaloupes, cherries, cranberries, grapes, grapefruit, honeydew melons, lemons, limes, oranges, pears, peaches, plums, strawberries, tangerines, watermelons, other miscellaneous fresh fruits.

Fresh vegetables: Asparagus, beans, lima, beans, string, beets, broccoli, cauliflower, corn, cucumbers, egg plant, endive (chicory), greens (collards, etc.), kale, lettuce, onions, green, onions, dry, parsley, parsnips, peas, peppers, green, potatoes, Irish, potatoes, sweet, radishes, spinach, squash, tomatoes,

turnips and rutabagas, mushrooms, rhubarb, other miscellaneous fresh vegetables.

Dairy products: Butter (except canned), cheese (except processed, canned), ice cream; ice cream mix in unsealed containers, fresh fluid milk, fresh fluid cream.

Poultry: Chicken (except canned), turkey (except canned), other poultry (except canned).

Meats: Beef (except canned and dehydrated), pork (except canned and dehydrated), lamb and mutton (except canned and dehydrated), veal (except canned and dehydrated), smoked or processed meats (except canned and dehydrated), other meats (except canned and dehydrated), lard and lard substitutes, offals (except canned and dehydrated).

Fish and sea foods: Fresh or frozen, salted or smoked (except canned).

Frozen vegetables.

Frozen fruits.

Bread and other bakery products (except biscuits, crackers, cracker meal, breakfast cereals, hard bread and zwieback).

Potato chips.

Compressed yeast.

Shell eggs.

Margarine.

Any other perishable food of a similar nature which may be determined from time to time by any of the Departments to be of the same general character as the items specifically set forth on the above list: *Provided, however,* That any items so added shall be reported to the Secretary of the War Contracts Price Adjustment Board.

[RR 843]

§ 1608.844 *List of exempted agricultural commodities.* Determination of the War Contracts Price Adjustment Board of the exemption from renegotiation of contracts and subcontracts for agricultural commodities under section 403 (i) (1) (C) of the Renegotiation Act of 1943.

(a) Pursuant to the authority conferred upon the War Contracts Price Adjustment Board by section 403 (i) (2) of the Renegotiation Act of 1943, the Board hereby determines that under subsection (i) (1) (C) of such section, relating to the exemption of contracts or subcontracts for agricultural commodities, the form or state indicated in the following list, is the last form or state at which the exemption applies:

Agricultural Commodity:	*Last Form or State at Which Exemption Is To Apply*
Beans and peas, dry	Threshed.
Beeswax	In the comb, or in bulk (not packed).
Berries, edible	Fresh.
Cinchona bark	As bark (unprocessed).
Coffee	Beans (green).
Corn	As grain (shelled).
Cotton	Ginned (in the bale).
Cottonseed	Unprocessed (as they come from the gin).
Cream, fluid	As sold from farms (not pasteurized).
Drugs (botanical)	Crude (unground, unprocessed, unstandardized, unpurified) as customarily sold by the basic producer.
Eggs	In the shell (raw).
Fiber flax straw	Deseeded (baled or unbaled).
Flaxseed (linseed)	As seed (unprocessed).
Fruits, edible	Fresh.
Gum opium	As gum in its natural state.
Hay	Baled or unbaled.
Hemp fiber	In bales.
Honey	Crude or "country run."
Jute and sisal fiber	In bales.
Latex (base for chewing gum)	Crude, not processed beyond coagulation or dehydration for handling and shipping.
Livestock	On the hoof.
Milk, raw fluid	As sold from farms (not pasteurized).
Peanuts	In the shell (raw).
Pine gum	Not distilled or purified.
Poultry	Alive.
Rice	Rough, unpolished (as it comes from the thresher).
Sugar beets	As beets.
Sugar cane	As cane.
Tobacco	Not processed beyond the form or state at which farmers ordinarily sell it.
Tree nuts, edible	In the shell (raw).
Vegetables	Fresh.
Vegetable seeds	Not processed beyond the form or state at which they may be used as seeds.
Wheat, rye, oats and barley	As threshed grain.
Wool	In the grease (as clipped from live animals).

This determination is made under the principles set forth in § 1603.344–2 of this chapter including paragraph (b) (2) thereof.

(c) This determination applies to all receipts or accruals under any contract or subcontract for the commodities listed in paragraph (a) of this section regardless of the date when such contract or subcontract was made.

(d) This section may be amended from time to time, revising, amending or supplementing the list of exempted commodities contained in paragraph (a) hereof. [RR 844]

§ 1608.845 *Standard commercial article exemption.* (a) Pursuant to the authority given to the War Contracts Price Adjustment Board by subsection (i) (4) of the Renegotiation Act of 1943, the Board, under the provisions of subsection (i) (4) (D) of the 1943 act, has exempted from renegotiation amounts received or accrued during fiscal years ending after June 30, 1943 and prior to July 1, 1944 under contracts or subcontracts for the making or furnishing of the following articles:

(a) Iron scrap and steel scrap; non-ferrous metal scrap; woolen waste, including woolen rags and clips, new and old; scrap rubber; waste paper; cotton or linen rags, including old bagging and old rope; and textile waste; sold by dealers or brokers.

Comment: The exemption of these articles as standard commercial articles applies only to dealers and brokers in these articles and is not to be construed as affecting, in any way, users of these articles (in particular, manufacturers who use these articles), nor does it affect manufacturers who may produce and sell these articles as a by-product in the course of their operation. Neither does the exemption cover sales of these articles in any form other than as scrap or waste.)

(b) Refined sugar (cane or beet);

(c) Textile bags (made of burlap or cotton);

(d) Leather transmission belting, mechanical and textile leathers and mechanical leather packings.

(e) Paper of the following types and grades, sold by paper mills: Groundwood and free sheet uncoated and coated book papers (including but not limited to free sheet and groundwood offset, envelope and tablet papers); Mimeograph and duplicating (both groundwood and free sheet); Bond, writing and ledger, including opaque circular; Manifold and onion skin; Cover and text; Index and Bristol; Map paper; Post card paper; Blue print base stock.

(f) Paper and paper products sold by merchants.

Comment: This exemption does not apply to sales of paper or paper products which have been manufactured, converted or processed by the seller or by any person under the control of or controlling or under common control with the seller.

(g) Ready mixed concrete.

(h) Portland cement.

(i) Wheat flour.

Comment: This exemption applies only to sales by the person milling the flour. Wheat flour includes granular flour and farina; whole wheat flour; products of the milling of durum wheat including whole durum flour and semolina; and blends of the foregoing. Bleached, bromated, enriched, phosphated and self-rising wheat flour are considered flour for purposes of this exemption.

(j) Quick and hydrated lime.

(k) Dead-burned dolomite.

[RR 845]

SUBPART E—OTHER ORDERS AND DIRECTIVES

§1608.851 *Salary stabilization regulations.*

§ 4001.10 *Salary increases.* In the case of a salary rate of $5,000 or less per annum existing on October 27, 1942, or established thereafter, and in the case of a salary rate of more than $5,000 per annum existing on October 3, 1942, or established thereafter, no increase shall be made by the employer except as provided in regulations, rulings, or orders promulgated under the authority of these regulations. Except as herein provided, any increase made after such respective dates shall be considered in contravention of the act and the regulations, rulings, or orders promulgated thereunder from the date of the payment if such increase is made prior to the approval of the Board or the Commissioner, as the case may be.

In the case, however, of a reasonable increase in the rate of which the salary (exclusive of bonuses and additional compensation) is computed, made both in accordance with the terms of a salary plan or a salary rate schedule and as a result of:

(a) Individual promotions or reclassifications.

(b) Individual merit increases within established salary rate ranges,

(c) Operation of an established plan of salary increases based on length of service within established rate ranges,

(d) Increased productivity under incentive plans,

(e) Operation of a trainee system, or

(f) Such other reasons or circumstances as may be prescribed in orders, rulings, or regulations, promulgated under the authority of these regulations,

no prior approval of the Board or the Commissioner is required. No such adjustment shall increase the level of production costs appreciably or furnish the basis either to increase prices or to resist otherwise justifiable reductions in prices or furnish the basis of further wage or salary adjustments.

[RR 851]

§ 1608.852 *Treasury ruling and decisions.* [RR 852]

§ 1608.852–1 *Treasury ruling on tentative tax returns.*

Office of
Commissioner of Internal Revenue
IT:P:CA
CAA

TREASURY DEPARTMENT,
Washington, April 17, 1943.

CHIEF OF ORDNANCE,
War Department,
Washington, D. C.

(Attention: Major Robert F. Doolittle, Room 5–D–384, Pentagon Building.)

SIR: Advice has been requested as to the application of I. T. 3577 (IRB 1942 No. 37) in a case where a taxpayer has been granted an extension of time for filing his return; has filed a "tentative return"; and thereafter is preparing to file a complete return on the date due under the extension of time.

A "tentative return" is a procedural device which enables a taxpayer who has secured an extension of time for filing his return, to file on the original due date, an incomplete return which enables the payment on an estimated basis of the installment of tax which is due on such date. Thereafter on or before the date to which the extension is granted the taxpayer is required to file a complete return.

The particular paragraph of I. T. 3577 which is involved in this consideration provides as follows:

"In cases of renegotiation agreements with respect to years for which income and excess profits tax returns have not been filed and income and excess profits taxes not assessed and paid, the reduction in gross income may be made, or the deduction may be taken in computing net income, as the case may be, although the renegotiating agreement has not been completed, provided at the time of filing the return the negotiations have progressed to such a stage that the amount of the reduction in gross income, or the amount of the repayment in lieu thereof, is certain, and in filing the income and excess profits tax return such reduction is made or such deduction is taken."

The complete return is the return referred to in I. T. 3577 and the provisions of I. T. 3577 are unaffected by the fact that a tentative return has previously been filed for the purpose and under the circumstances indicated.

Respectfully,

T. MOONEY,
Deputy Commissioner.

[RR 852.1]

§ 1608.852–2 *I. T. 3577.*

1942–37–11193
I. T. 3577

STATEMENT OF POLICY OF BUREAU OF INTERNAL REVENUE AS TO TAX EFFECT IN CASES IN WHICH GOVERNMENT WAR CONTRACTS ARE RENEGOTIATED, OR IN CASES WHERE, PURSUANT TO ACTION BY THE COMPTROLLER GENERAL, AN ITEM FOR WHICH A TAXPAYER HAS BEEN REIMBURSED IS DISALLOWED AS AN ITEM OF COST CHARGEABLE TO A COST-PLUS-A-FIXED-FEE CONTRACT

Advice is requested as to the policy of the Bureau of Internal Revenue with respect to the adjustment of income and excess profits taxes in cases in which Government war contracts are renegotiated and it is determined by the renegotiating department or agency that excessive profits have been, or are likely to be, paid to the contractor or subcontractor, and in cases where, pursuant to action by the Comptroller General, an item for which a taxpayer has been reimbursed is disallowed as an item of cost chargeable to a cost-plus-a-fixed-fee contract, the taxpayer being required to repay to the Government the amount of such disallowance.

Under Title IV of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public Law 528, Seventy-seventh Congress, second session), certain Government departments or agencies are authorized and directed to require contractors or subcontractors to renegotiate the contract price with respect to designated contracts and subcontracts in case any amounts of excessive profits have been, or are likely to be, realized therefrom and to recover such excessive profits paid, or to withhold payment if the profits have not been paid.

The determination of the amount of the excessive profits and the making of an agreement with the contractor or subcontractor in regard to the method by which repayment to the Government of the excessive profits is to be effected are matters within the jurisdiction of the particular renegotiating department or agency. The Bureau of Internal Revenue has no authority to function in the determination or collection of these excessive profits. The Bureau, however, upon request of the parties to the renegotiation will advise them of the manner in which the renegotiation will affect the contractor's Federal income and excess profits taxes.

The determination of tax liabilities and the collection thereof are under the administration of the Bureau, together with the making of rulings and closing agreements, under Section 3760 of the Internal Revenue Code, with the taxpayer with respect to either actual tax liability for any taxable year or prospectively with respect to proposed transactions.

In case the renegotiating agreement provides for reduced contract prices to be retroactively applied to prior taxable years for which returns have been filed and the income and excess profits taxes paid or assessed, repayment to the Government of the excessive profits on which such taxes have been paid or assessed will be involved in the settlement. This raises the question, "If the contractor or subcontractor repays the entire amount of such excessive profits to the Government, should the Bureau be required to refund the income and excess profits taxes paid on such excessive profits?" The position of the Bureau is that only the amount of such profits in excess of the Federal income and excess profits taxes paid or assessed thereon should be repaid by the contractor or subcontractor, and no refund or abatement of such taxes should be made, since the taxes should be considered as a recapture of a portion of the excessive profits and as such a proper offset against the total excessive profits. The remainder of the excessive profits would be recaptured through repayment thereof to the Government by the contractor or subcontractor. The repayment should not be allowed as a deduction in the income and excess profits tax returns of the taxpayer for any taxable year. To do so would result in a double tax benefit where the income and excess profits taxes have been offset against the excessive profits. Even though the right to such offset is foregone by the taxpayer and the offset is not made, the repayment should not be allowed as a deduction in the taxpayer's returns, since the taxpayer should not be permitted to forego the right to the offset for the sake of obtaining a deduction for a year for which the deduction will result in a greater tax benefit. This may be illustrated by the following example:

Example. The M Corporation filed a return for the calendar year 1941 on March 15, 1942, reporting therein an amount of $1,000,000, which was subsequently in the year 1942 held by one of the designated renegotiating agencies to be excessive profits realized in performance of a contract, on which excessive profits income and excess profits taxes aggregating $400,000 were paid. The $400,000 taxes should not be refunded and the remainder of the excessive profits, or $600,000, should be repaid by the corporation to the Government. The amount of $600,000 repaid to the Government will not constitute an allowable deduction from gross income for any taxable year. This produces the correct result. Excessive profits, before Federal taxes, of $1,000,000 would have been recaptured by the Government, $400,000 through the medium of taxes and $600,000 by direct repayment to the Government, with no aftermath affecting Federal taxes. To hold otherwise, for instance, to hold that the $1,000,000 should be repaid to the Government and allow such repayment as a deduction for income tax purposes for the year 1942, when the effective rate of tax, for example, is 75 percent, would produce the following incorrect result: The tax benefit in 1942 would be $750,000. The taxpayer would have paid $1,400,000 to the Government and derived a tax benefit of $750,000. The taxpayer, therefore, would have paid only $650,000 net to the Government, whereas the excessive profits admittedly were $1,000,000. Different results would be obtained in other cases depending upon the factors of income and effective rates of taxes being different from those in this example.

In case the renegotiating agreement determines reduced contract prices to be charged during the year of the agreement or subsequent thereto, or a repayment is to be made in lieu thereof which is not applicable to profits for a year for which an income tax return has been filed, and on which profits income and excess profits taxes have not been assessed or paid, gross income to be reported in the returns for such years should be reduced to conform with the reduced prices, or in case of repayment, a deduction may be taken in computing net income, provided, excessive profits determined to have been realized and received by the taxpayer are repaid to the Government. Likewise, in case the reduced contract prices are determined for the immediately preceding taxable year or a repayment is to be made in lieu thereof, and the income and excess profits tax returns for such year have not been filed at the time of such determination, the gross income for such preceding year may be reported to conform with the reduced prices agreed upon, or a deduction may be taken in computing net income, as the case may be, provided the taxpayer repays to the Government the excessive profits determined to have been realized. No deduction from gross income will be allowed for any other taxable year for the amount of such excessive profits so repaid. This may be illustrated by the following example:

Example. The X Corporation filed a return for the calendar year 1942 on March 15, 1943. In February, 1943, it was determined that the taxpayer had realized during 1942 excessive profits in the amount of $1,-

000,000 and the parties agree that during 1943 repayment of such excessive profits will be made to the Government in designated amounts per month until the entire amount of $1,000,000 excessive profits is repaid. The gross income to be reported by the corporation in its return for 1942 should not include the $1,000,000, and no tax attributable to excessive profits will thus be assessed or paid. No deduction from gross income will be allowed for any year for the amount of the excessive profits excluded from gross income and repaid to the Government.

In cases of renegotiation agreements with respect to years for which income and excess profits tax returns have not been filed and income and excess profits taxes are not assessed and paid, the reduction in gross income may be made, or the deduction may be taken in computing net income, as the case may be, although the renegotiating agreement has not been completed, provided at the time of filing the return the negotiations have progressed to such a stage that the amount of the reduction in gross income, or the amount of the repayment in lieu thereof, is certain, and in filing the income and excess profits tax return such reduction is made or such deduction is taken.

The Bureau, upon request of the parties to the renegotiation, in any case will advise them relative to the amount of excessive profits previously recaptured through the medium of income and excess profits taxes paid thereon.

In addition to the above stated considerations for the basis of the position of the Bureau that refunds of income and excess profits taxes should not be allowed in such cases, it may be stated that if the Bureau should be required to make refunds of the taxes paid on excessive profits repaid to the Government because such excessive profits have been determined before the taxes, instead of after the taxes, entirely ignoring the previous recapture of a portion of the excessive profits through the medium of such taxes, an appropriation from Congress to provide funds for such refunds would be necessary. The estimate of the sum necessary for such purpose logically would be based upon information from the negotiating agencies relative to the income and excess profits taxes paid on the excessive profits recaptured by such agencies without reducing the excessive profits by the amount of such taxes previously paid thereon.

What has been said above applies with equal force to cases involving a cost-plus-a-fixed-fee contract where an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and the taxpayer is required to repay to the United States the amount disallowed.

[RR 852.2]

§ 1608.852–3 *I. T. 3611.*

SECTION 3806.—MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT

1943–12–11468
I. T. 3611

Effect for Federal income and excess profits tax purposes of the renegotiation of Government contracts or subcontracts thereunder to eliminate excessive profits for a particular year, and the allowance, in mitigation of the effect of such renegotiation, of a credit against the excessive profits, under section 3806 of the Internal Revenue Code, as added by section 508 of the Revenue Act of 1942, for Federal income and excess profits taxes attributable to such excessive profits. Practice of Bureau (I. T. 3577, C. B. 1942–2, 163) restated.

Advice is requested as to the effect for Federal income and excess profits tax purposes of the renegotiation of Government contracts or subcontracts thereunder to eliminate excessive profits for a particular year, and the allowance, in mitigation of the effect of such renegotiation, of a credit against the excessive profits, under section 3806 of the Internal Revenue Code, as added by section 508 of the Revenue Act of 1942, for Federal income and excess profits taxes attributable to such excessive profits.

Under Title IV of the Sixth Supplemental National Defense Appropriation Act of 1942 (Public Law 528, Seventy-seventh Congress, second session), as amended by section 801 of the Revenue Act of 1942 (Public Law 753, Seventy-seventh Congress, second session), certain Government departments or agencies are authorized and directed to require contractors or subcontractors to renegotiate the contract price with respect to designated contracts and subcontracts in case any amounts of excessive profits have been or are likely to be realized therefrom and recover such excessive profits paid, or to withhold payment if the profits have not been paid.

In case the renegotiating agreement provides that excessive profits have been realized under contracts in effect during prior taxable years for which returns have been filed and the income and excess profits taxes paid or assessed, elimination of the excessive profits on which such taxes have been paid or assessed is involved in the settlement. The question was raised whether the contractor or subcontractor should repay the entire amount of such excessive profits to the Government and the Bureau of Internal Revenue be required to refund the income and excess profits taxes paid on such excessive profits, or whether only the amount of such profits in excess of the Federal income and excess profits taxes paid or assessed thereon should be repaid by the contractor or subcontractor and no refund or abatement of such taxes be made, the taxes being considered as a recapture of a portion of the excessive profits, and as such a proper offset against the total excessive profits, and the remainder of the excessive profits being recaptured through payment thereof to the Government by the contractor or subcontractor. The question was also raised whether the excessive profits eliminated give rise to a deduction in the income and excess profits tax returns of the taxpayer for any other taxable year, since to do so would result in a double tax benefit where the income and excess profits taxes have been offset against the excessive profits. These questions have now been resolved by section 3806 of the Code, as indicated below.

Section 3806 (a) 1 of the Code requires that a payment or repayment within a taxable year ending after December 31, 1941, of excessive profits pursuant to a renegotiation, shall be treated as a reduction of the price of the contracts or subcontracts for the taxable year for which such price was received or accrued. Section 3806 (b) of the Code requires that the decrease in Federal income and excess profits taxes resulting from such contract price reductions be credited against the amount of the excessive profits eliminated through renegotiation. Consequently the taxpayer will, on account of the renegotiation, pay or repay to the United States only the net amount of excessive profits of a prior taxable year which remain after there has been credited against the excessive profits the amount of Federal income and excess profits taxes attributable to such excessive profits. If the amount allowed as such credit against the excessive profits is less than the amount allowable, the difference is to be treated as an overpayment of the tax to be refunded or credited to the taxpayer as provided in section 3806 (c) of the Code. Also, the credit allowed against the amount of excessive profits, for Federal income tax purposes, including computation of post-war refund of excess profits taxes under section 780 of the Code, is treated the same as if such credit were a refund of the taxes forming the basis of the credit.

In view of the provisions of section 3806, it is the opinion of this office that the taxpayer's net income for Federal income and excess profits tax purposes is required to be, in effect, determined upon the basis of, and by giving effect to the renegotiation. No refund of tax for any taxable year shall include any amount of tax which, pursuant to section 3806 (b), is credited against excessive profits eliminated for such year. However, for the purpose of determining the correct amount of the tax after a renegotiation has been made for a taxable year, the amount credited against the excessive profits eliminated is to be treated as an amount previously credited to the taxpayer in respect of the tax for such year. Also, the amount of the post-war refund, under sections 780 and 781 of the Code, of excess profits tax shall be reduced to reflect the amount of such tax which is credited against the excessive profits eliminated. Furthermore, where excessive profits eliminated and repaid to the Government are treated as a reduction of gross income, the amount of such excessive profits is not an allowable deduction from the gross income of the taxpayer for any taxable year. (See section 3806 (a) 3 of the Code.) This may be illustrated by the following example:

Example. The A Corporation, which makes its income and excess profits tax returns on the calendar year basis, filed its returns for 1942 on March 15, 1943. As a result of a renegotiation consummated on May 1, 1943, it was determined that in 1942 the A Corporation realized excessive profits of $1,000,000 in the performance of its Government contracts. On such amount of $1,000,000, the A Corporation was assessed Federal income and excess profits taxes aggregating $700,000, of which $10,000 represented declared value excess-profits taxes and $270,000 represented excess profits taxes imposed by Subchapter E of Chapter 2 of the Code. Such taxes were credited against the $1,000,000 of excessive profits eliminated for 1942, and on May 1, 1943, the A Corporation paid to the United States the net amount of $300,000 ($1,000,000 less $700,000). The gross income of the A Corporation for 1942 is to be reduced by the $1,000,000 in excessive profits eliminated. The A Corporation is not entitled in computing its net income for 1942 or any subsequent taxable year to deduct any portion of such $1,000,000 excessive profits. No part of the $700,000 Federal income and excess profits taxes shall be refunded or credited to the taxpayer under sections 321 and 322 of the Code. However, for the purpose of determining the correct tax for 1942, the amount of tax shown by the A Corporation on its return for such year shall be decreased by the $700,000 credit allowed against excessive profits. The post-war refund of excess profits tax is reduced by $27,000 (10 percent of $270,000).

In giving effect to the principles applied by section 3806 of the Code in case the renegotiating agreement determines reduced contract prices to be charged during the year of the agreement or subsequent thereto, or a repayment is to be made in lieu thereof which is not applicable to profits for a year for which an income tax return has been filed, and on which profits income and excess profits taxes have not been assessed or paid, the practice of the Bureau has been to permit the taxpayer to reduce the gross income to be reported in the returns for such years to conform with the reduced price or, in case of repayment, to permit a deduction to be taken in computing net income, provided, excessive profits determined to have been realized and received by the taxpayer are repaid to the Government. Likewise, in case the reduced contract prices are determined for the immediately preceding taxable year or a repayment is to be made in lieu thereof, and the completed income and excess profits tax returns for such year have not been filed at the time of such determination, the taxpayer has been permitted

to report the gross income for such preceding year to conform with the reduced prices agreed upon or to take a deduction in computing net income, as the case may be, provided the taxpayer repays to the Government the excessive profits determined to have been realized. No deduction from gross income is allowed for any other taxable year for the amount of such excessive profits so repaid. This method of treatment will continue to be followed, subject to the condition that the excessive profits be paid or repaid to the United States or credited against amounts due and payable from the United States, and no deduction from gross income will be allowed for any other taxable year for the amount of such excessive profits so repaid. (See I. T. 3577, C. B. 1942–2, 163.)

The above statements apply with equal force to (1) disallowance of items of cost for which a contractor has been previously reimbursed under a cost-plus-a-fixed-fee contract (see section 3806 (a) 2 of the Code), and (2) contracts involving any renegotiation within the meaning of that term as it is defined in section 3806 (a) 1 (A) of the Code, including, but not limited to, (*a*) any modification of one or more contracts with the United States or any agency thereof when such modification effects a voluntary elimination of excessive profits (as defined in section 3806 (a) 1 (B) of the Code) for a prior year, or a price reduction made retroactive for a prior year pursuant to express provision for price adjustment contained in the contract, and (*b*) any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

[RR 852.3]

§ 1608.852–4 *I. T. 3671.*

SECTION 3806—MITIGATION OF EFFECT OF RENEGOTIATION OF WAR CONTRACTS OR DISALLOWANCE OF REIMBURSEMENT

1944–12–11764
I. T. 3671

The term "renegotiation," for the purposes of section 3806 of the Internal Revenue Code, as amended, is not limited to a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (56 Stat., 226), as amended.

Advice is requested whether the term "renegotiation," for the purposes of section 3806 of the Internal Revenue Code, as amended, is limited to a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942 (56 Stat., 226), as amended, or whether any Government contractor, acting upon his own initiative and desirous of refunding direct to the United States profits he has realized under a Government contract, or a subcontract thereunder, may effect a repayment of such profits in a manner coming within the provisions of section 3806 of the Code, as amended.

Section 3806 (a) (1) (A) of the Code provides as follows:

The term "renegotiation" includes any transaction which is a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

It will be noted that the above-quoted provision of the Code includes within the term "renegotiation"—"any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder."

It is held that the term "renegotiation," for the purposes of section 3806 of the Internal Revenue Code, as amended, is not limited to a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, as amended, supra (which section is cited as the Renegotiation Act). It includes an agreement in writing made in respect of one or more Government contracts or subcontracts thereunder, and may be effected by an exchange of correspondence which embodies a binding agreement by both parties as to the amount repaid or to be repaid and the year to which the repayment relates. A Government contractor, acting upon his own initiative and desirous of refunding direct to the United States profits he has realized under a Government contract, or a subcontract thereunder, should, however, get in touch with the renegotiating agency as to the form of agreement in writing which may be employed.

[RR 852.4]

§ 1608.852–5 *T. D. 5405.*

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington 25, D. C.

To Collectors of Internal Revenue and Others concerned:

Section 29.42–1 (a) of Regulations 111 [Part 29, Title 26, Code of Federal Regulations, Cum. Supp.] is amended by striking out the last sentence and inserting in lieu thereof the following:

Except as otherwise stated in this subsection, such items as claims for compensation under canceled Government contracts constitute income for the year in which they are allowed or their value is otherwise definitely determined, if the return is rendered on the accrual basis; or for the year in which received, if the return is rendered on the basis of cash receipts and disbursements. In the case of a termination of a war contract as defined by section 3 of the Contract Settlement Act of 1944 (or the termination of any other Government contract as to which the right to compensation is definitely fixed and the measure thereof is determinable with reasonable accuracy), if the return is rendered on a basis other than cash receipts and disbursements, compensation for the termination shall, unless a different method of reporting is prescribed or approved by the Commissioner, constitute income for the taxable year in which falls the effective date of the termination, except that if any part of the compensation is attributable to cost, expenses, or losses incurred in a subsequent year such part of the compensation shall be returned as income for the subsequent year.

(This Treasury decision is issued under the authority contained in section 62 of the Internal Revenue Code (53 Stat. 32; 26 U. S. C., 1940 ed., 62).)

HAROLD N. GRAVES,
Acting Commissioner of Internal Revenue.

Approved: September 22, 1944.

D. W. BELL,
Acting Secretary of the Treasury.

[RR 852.5]

§ 1608.852–6 *Mimeograph 5766.*

NOVEMBER 1, 1944.

Com.-Mimeograph
Coll. No. 5766
R. A. No. 1398
T. S. No. 343

TREATMENT OF COMPENSATION FOR THE TERMINATION OF FIXED-PRICE CONTRACTS WHICH CONSTITUTE WAR CONTRACTS WITHIN THE MEANING OF SECTION 3 OF THE CONTRACT SETTLEMENT ACT OF 1944 AND OF "NO-COST" SETTLEMENTS IN RESPECT OF SUCH WAR CONTRACT TERMINATIONS

Collectors of Internal Revenue,
Internal Revenue Agents in Charge,
Heads of Field Divisions of the Technical Staff, and Others Concerned:

Pursuant to the provisions of § 29.42–1, Regulations 111, as amended by T. D. 5405, promulgated on September 22, 1944, in the case of a contractor who renders his returns other than on a basis of cash receipts and disbursements, compensation in respect of termination of fixed-price contracts which constitute war contracts within the meaning of section 3 of the Contract Settlement Act of 1944 shall, in the case of negotiated settlements, be treated for Federal income and excess profits tax purposes in accordance with the following:

(a) *When included in gross income.* In the case of a negotiated settlement, compensation for the termination of such fixed-price contracts shall be included in computing the gross income for a particular taxable year in accordance with the following rules:

(1) *Taxable years ending prior to July 21, 1944.* In case a war contract is terminated within a taxable year ending prior to July 21, 1944, the effective date of the Contract Settlement Act of 1944, the income from the contract termination shall be included in computing gross income for the taxable year in which the claim is allowed (or the settlement proposal is accepted) or for the taxable year in which its value is otherwise definitely determined or for the first taxable year ending after July 20, 1944, whichever year is the earliest: *Provided, however,* That the contractor shall not be required or permitted to include in income for such year any part of the income from the contract termination which was included in income for the year of the contract termination.

(2) *Taxable years ending on or after July 21, 1944.* In case a war contract is terminated within a taxable year ending on or after July 21, 1944, the income from the contract termination shall be included in computing gross income for the taxable year of the contract termination. The foregoing method shall apply in all such cases unless a different method is prescribed or approved by the Commissioner. As a general rule, such different method will be prescribed or approved only in specific cases and after examination or disclosure of all pertinent facts.

(3) *Adjustment of return.* If the income from the contract termination which, under the above subparagraph (1), is to be taken into account in computing gross income for the taxable year in which the Contract Settlement Act of 1944 became effective, or which, under the above subparagraph (2) is to be taken into account for the year of the contract termination, is not definitely ascertained at the time of filing the return, the contractor shall include in his return a reasonable estimate of such income, and should attach to his return a statement identifying the contract termination to which such estimate relates. When the correct amount of the income from the contract termination is ascertained, an adjustment shall be made for the year for which the income was included. Cf. *Continental Tie & Lumber Co.* v. *United States,* (1932) 286 U. S. 290.

(4) *Correlation of deductions and income.* As a general rule, items which are deduct-

ible in computing net income and which for contract termination purposes are allocable to the uncompleted portion of a terminated contract shall be deductible in computing net income for the taxable year for which the income from the contract termination is includible in gross income. Cf. *Hoe & Co.* v. *Commissioner*, (1929; C. C. A. 2nd) 30 Fed. (2d) 630. In the case of a contract terminated within a taxable year ended prior to July 21, 1944, the rule stated in the preceding sentence shall not apply to any item which was deducted by the contractor in a taxable year prior to the year in which the income from the contract termination is included in income. Nor, in a case of a contract terminated within a taxable year ended on or after July 21, 1944, shall a contractor be permitted to deduct for the taxable year for which the income from the contract termination is included in income expenses incurred, or losses, depreciation or amortization sustained, in a taxable year prior to the year of the contract termination.

(b) *Scope of negotiated settlements.* By letter to the Bureau dated October 25, 1944, the Director of Contract Settlement states: "Under the procedures and practices prescribed by this Office under the Contract Settlement Act of 1944 in respect of negotiated settlements of claims arising out of terminations of fixed-price contracts, no part of the compensation for the contract termination as determined for the purposes of the Act and as agreed to by the contractor and the contracting agency is made in payment of any particular item, except that a part of the compensation may be authorized and agreed to as payment for a part of the cost of an emergency facility as defined in section 124 of the Internal Revenue Code, as amended." This statement is referred to herein as the "Director's statement." In view of this statement, in the case of a negotiated lump-sum settlement of a claim for compensation for termination of a fixed-price contract, the contractor is precluded from showing, and the Commissioner from determining, for Federal income and excess profits tax purposes, that any part of the compensation is for, in reimbursement of, or attributable to, any particular item of property, cost, expense or loss, except that this does not apply in cases where specific provisions in the settlement agreement require otherwise. In such excepted cases, there shall be excluded from income that portion of the compensation which (1) under such provisions is for, or in reimbursement of, any such item, and (2) is to be applied in reduction of the cost or basis of such item or, in the event such item is deductible, is includible in income for the taxable year in which such item is incurred. Such reduction in basis shall be made as of the effective date of the contract termination. See *Glendinning, McLeish & Co.*, 24 B. T. A. 518, affirmed 61 Fed. (2d) 950; *A. J. Tower Co.* v. *Commissioner*, (1930; C. C. A. 1st) 38 Fed. (2d) 618; *New York, Chicago & St. Louis R. R. Co.*, 26 B. T. A. 1229, 1289; *Edith Henry Barbour*, 44 B. T. A. 1117; and, also, section 124 (h) of the Internal Revenue Code.

(c) *No-cost settlements.* The phrase "no-cost settlement" as used herein refers to a settlement in respect of a contract termination pursuant to which the contractor waives or releases all claim to compensation for the contract termination. In case a no-cost settlement is made in respect of a termination of a fixed-price contract, regardless of whether it is made pursuant to the provisions of section 6 (c) of the Contract Settlement Act of 1944 or otherwise, in view of the Director's statement (see paragraph (b), above), the treatment of such settlement for Federal income and excess profits tax purposes shall be consistent with the following:

(1) *Effect on income.* No amount shall be treated as income from the contract termination for the purposes of the above paragraph (a), and, if any such amount is included in the return for any year, the return shall be adjusted to accord with the provisions of this subparagraph. This adjustment may be made at any time within the period prescribed by the statute of limitations, regardless of when the no-cost settlement is made.

(2) *Effect on deductions.* The execution of a no-cost settlement does not preclude the contractor from being entitled, in computing net income for a given taxable year, to deduct any item which is allowable as a deduction under the provisions of the Internal Revenue Code. Conversely, the execution of such settlement does not alone establish for the contractor a right to deduct for any particular year any item not otherwise allowable in computing net income for such year. Cf. *H. D. Lee Mercantile Co.* v. *Commissioner*, (1935; C. C. A. 10th) 79 Fed. (2d) 391; C. B. XV–1, 302. The deductibility of any item is to be determined upon the basis of all the pertinent facts and circumstances and irrespective of whether a no-cost settlement is or is not made. Consequently, in terminations of fixed-price contracts the provisions of the Contract Settlement Act of 1944, as construed and applied by the Director of Contract Settlement in negotiated settlements, including no-cost settlements, do not preclude the deduction of expenses incurred, or losses, depreciation or amortization sustained, in connection with the terminated contract, though such items are allocable to the uncompleted portion of such contract; and the deductibility of such items is to be determined without regard to any right of the contractor to compensation in such cases.

(3) *Effect on inventories.* Regardless of when the no-cost settlement is made, the determination of what articles are properly includible in the closing inventory of the year of the contract termination or the closing inventory of any subsequent year, and the valuation of such articles for inventory purposes, are to be made without regard to any right of the contractor to compensation for termination of a contract terminated prior to the inventory date. *U. S. Cartridge Co.* v. *United States* (1932), 284 U. S. 511; *American Propeller and Mfg. Co.* v. *United States* (1933; Ct. Cls.), 14 Fed. Supp. 163.

Correspondence in regard to this mimeograph should refer to its number and the symbols IT:NDC.

[RR 852.6]

JOSEPH D. NUNAN, Jr.,
Commissioner.

[F. R. Doc. 45–1056; Filed, Jan. 17, 1945; 9:37 a. m.]

Notices

FEDERAL POWER COMMISSION.

[Docket No. G–599]

TENNESSEE GAS AND TRANSMISSION CO.

ORDER GRANTING PETITION TO WITHDRAW APPLICATION AND TERMINATING PROCEEDING THEREON

JANUARY 23, 1945.

It appearing to the Commission that:

(a) By its order of January 4, 1945, the public hearing in this proceeding was set to commence on February 8, 1945, at 10 a. m., (e. w. t.) in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.

(b) On January 18, 1945, Tennessee Gas and Transmission Company filed a petition requesting the withdrawal of its application filed herein on November 30, 1944, for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, as amended, for authority to construct and operate certain facilities therein described;

The Commission orders that:

(A) The petition for leave to withdraw the application filed in this matter on November 30, 1944, be and it is hereby granted without prejudice.

(B) The order setting this matter for hearing on February 8, 1945, be and it is hereby vacated, and this proceeding is hereby terminated.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 45–1496; Filed, Jan. 25, 1945; 9:43 a. m.]

[Docket Nos. G–611 and G–612]

PANHANDLE EASTERN PIPE LINE CO.

NOTICE OF APPLICATIONS

JANUARY 24, 1945.

Notice is hereby given that on January 6, 1945, applications were filed with the Federal Power Commission by Panhandle Eastern Pipe Line Company ("Applicant"), a Delaware corporation having its principal offices at Kansas City, Missouri, and Chicago, Illinois, and which owns and operates an integrated natural gas pipeline system situated in the States of Texas, Oklahoma, Kansas, Missouri, Illinois, Indiana, Ohio and Michigan, seeking (1) a Presidential Permit, pursuant to Executive Order No. 8202, for the construction, operation, maintenance and connection, at the International boundary of the United States, at and near the City of River Rouge, Michigan, of facilities for the exportation of natural gas to Canada (Docket No. G–611); and (2) an order authorizing it, pursuant to section 3 of the Natural Gas Act, to export natural gas from the United States to Canada (Docket No. G–612).

The applications recite that the natural gas which Applicant proposes to export is to be obtained from the Panhandle Field in Texas and the Hugoton Field in southwestern Kansas, western Oklahoma and northwestern Texas; that as of November 25, 1944, Applicant entered into a contract with Union Gas Company of Canada, Ltd. ("Canadian Company"), a corporation of the Province of Ontario, Canada, whereby Applicant has agreed to sell and deliver to the Canadian Company, in the spring, summer and fall months of each year during the life of the contract, the following quantities of natural gas:

(a) During each twelve-month period throughout the life of such contract and any renewal or extension thereof, 5,500,000,000 cubic feet;

(b) Such quantities in addition to the foregoing as Applicant, upon specific request of the Canadian Company, may elect to deliver up to, but not exceeding, 15% of the aforementioned quantities;

that the contract specifically provides that applicant shall be under no obliga-

tion to deliver any gas to the Canadian Company during the months of January, February, March and December of each year; that the rate proposed to be charged the Canadian Company is 25¢, coin of the United States of America, per MCF (subject, however, to increase or decrease in accordance with variations in the heating value of the gas, and in accordance with variations in the price of coal); that the term of such contract is the period from the date of its execution to (a) the expiration of 20 years from the first day of the month immediately following the date of initial delivery of gas thereunder, or (b) December 31, 1935, whichever date is earlier, and that unless then terminated by written notice given by either party thereto 6 months prior to such expiration date, the contract shall continue thereafter until terminated by either party upon 6 months' prior written notice; that the gas so proposed to be exported and sold by Applicant is to be utilized by the Canadian Company for resale to the latter company's domestic, commercial, industrial and other consumers located in the Dominion of Canada; that the Canadian Company proposes to utilize a portion of the gas at the time or times of deliveries to it, for the purpose of currently augmenting its system requirements of gas for resale in the Dominion of Canada; but that the greater portion of such gas is proposed to be piped by Canadian Company into its underground storage facilities located in its "Dawn Field" in Ontario, Canada, for withdrawals as they become necessary, during the winter months, to meet said company's peak-load requirements.

The facilities proposed to be constructed by Applicant for the exportation of natural gas to Canada include a 16" O. D. lateral steel pipe line connecting with Applicant's main 22" line at its Detroit Regulator Station in the City of Allen Park, Michigan, and extending thence easterly to the right-of-way of the D. & T. S. L. and the Michigan Central Railroad and the D. T. & I. Railroad; thence northeasterly along the D. T. & I. Railroad to Coolidge Avenue in the City of River Rouge, Michigan; thence southeasterly along Coolidge Avenue to the west bank of the Detroit River, at which point connection will be made with two parallel 12" pipe lines extending underneath the Detroit River to points of connection at the International boundary line of the United States and Canada with transmission pipe lines of the Canadian Company, together with necessary appurtenant facilities.

Any person desiring to be heard or to make any protest with reference to said applications, or either of them, should, on or before the 8th day of February 1945, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's provisional rules of practice and regulations under the Natural Gas Act.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 45-1497; Filed, Jan. 25, 1945; 9:43 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 5061]

QUICK MANUFACTURING CO., ET AL.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 23d day of January, A. D. 1945.

In the matter of John W. Kellogg, individually, and trading as Quick Manufacturing Company, Quick Prophylactic Company and Sealtex Company.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That George Biddle, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, February 9, 1945, at ten o'clock in the forenoon of that day (Central Standard Time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the facts; conclusions of facts; conclusions of law; and recommendation for appropriate action by the Commission.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 45-1531; Filed, Jan. 25, 1945; 11:34 a. m.]

[Docket No. 5120]

STAFFIN JOHNS CO., ET AL.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of January, A. D. 1945.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That George Biddle, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, February 5, 1945, at ten o'clock in the forenoon of that day (Central Standard Time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the facts; conclusions of facts; conclusions of law; and recommendation for appropriate action by the Commission.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 45-1532; Filed, Jan. 25, 1945; 11:34 a. m.]

[Docket No. 5245]

ILLINOIS MERCHANDISE MART

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23d day of January, A. D. 1945.

In the matter of Harold S. Schwartz, Jerome G. Becker, Louis S. Schwartz and Louis C. Schnitz, copartners, trading as Illinois Merchandise Mart.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission.

It is ordered, That George Biddle, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law.

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, February 7, 1945, at ten o'clock in the forenoon of that day (Central Standard Time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the facts; conclusions of facts; conclusions of law; and recommendation for appropriate action by the Commission.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 45-1533; Filed, Jan. 25, 1945; 11:34 a. m.]

INTERSTATE COMMERCE COMMISSION.

[S. O. 70-A, Special Permit 829]

RECONSIGNMENT OF LETTUCE AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Chicago, Illinois, January 20, 1945, by L. Gilliarde Company, of car URTX 55119, lettuce, now on the Chicago

Produce Terminal, to Zimmerman Brothers, Enola, Pennsylvania (P. R. R.).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 20th day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1499; Filed, Jan. 25, 1945; 11:09 a. m.]

[S. O. 70-A, Special Permit 830]

RECONSIGNMENT OF BROCCOLI AT PHILADELPHIA, PA.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Philadelphia, Pennsylvania, January 23, 1945, by Starr Produce Company, of car SFRD 38952, broccoli, now on the Pennsylvania Railroad, to Yecker Eichenbaum, Inc., New York, N. Y. (P. R. R.).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 23d day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1500; Filed, Jan. 25, 1945; 11:09 a. m.]

[S. O. 70-A, Special Permit 831]

RECONSIGNMENT OF CAR PFE 52706 AT MINNEAPOLIS, MINN.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Minneapolis, Minnesota, January 22, 1945, by W. A. Snyder & Sons Company (Lindsay, Cal.) of car PFE 52706, now on the C. St. P. M. & O. to Chester Franzell Company, Pittsburgh, Pennsylvania (CNW-PRR).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 22d day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1501; Filed, Jan. 25, 1945; 11:09 a. m.]

[S. O. 70-A, Special Permit 832]

RECONSIGNMENT OF TOMATOES AT KANSAS CITY, MO.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Kansas City, Missouri, January 22, 1945, by Pina & Sons of car PFE 34671, tomatoes, now on the C. R. I. & P. Railroad to J. C. Mortiz Company, Philadelphia, Pennsylvania. (RI-Wab.-PRR).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 22d day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1502; Filed, Jan. 25, 1945; 11:10 a. m.]

[S. O. 70-A, Special Permit 833]

RECONSIGNMENT OF LETTUCE AT KANSAS CITY, MO.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Kansas City, Missouri, January 22, 1945, by E. E. Walter PFE Company, of car PFE 36268, lettuce, now on the MKT to F. J. McCann, Atlanta, Georgia.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 22d day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1503; Filed, Jan. 25, 1945; 11:10 a. m.]

[S. O. 70-A, Special Permit 834]

RECONSIGNMENT OF TANGERINES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Chicago, Illinois, January 22, 1945, by Gridley Maxon, of car FGE 50469, tangerines, now on the Chicago Produce Terminal, to Eisner Grocery Company, Champaign, Ill. (IC).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 22d day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1504; Filed, Jan. 25, 1945; 11:10 a. m.]

[S. O. 70-A, Special Permit 835]

RECONSIGNMENT OF ORANGES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Chicago, Illinois, January 23, 1945, by Pacific Fruit Distributors, of car PFE 93388, oranges, now on the Chicago Produce Terminal, to David Schulman, Cleveland, Ohio (N. K. P.), account railroad error in transmission of diversion orders.

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 23d day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1505; Filed, Jan. 25, 1945; 11:10 a. m.]

[S. O. 262, 2d Amended Gen. Permit 1]

REFRIGERATION OF CITRUS FRUITS FROM FLORIDA

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (9 F.R. 14786) of Service Order No. 262 of December 18, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To provide standard refrigeration on any refrigerator car loaded with a mixed shipment of tangerines or temple, king, or clementine oranges and other citrus friuts originating at any point or points in the State of Florida: *Provided,* That the tangerines or temple, king, or clementine oranges in the car comprise not less than fifty (50) percent of the tariff minimum weight applicable on the tangerines or temple, king, or clementine oranges: *And further provided,* That the waybills shall show reference to this general permit.

This general permit shall become effective at 12:01 a. m., January 27, 1945, and shall expire at 12:01 a. m., April 1, 1945.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 23d day of January 1945.

V. C. CLINGER,
Director,
Bureau of Service.

[F. R. Doc. 45-1506; Filed, Jan. 25, 1945; 11:10 a. m.]

[S. O. 276]

ROUTING OF SYMBOL TRAFFIC

Correction

In Federal Register Document 45-1406, appearing on page 902 of the issue for Wednesday, January 24, 1945, paragraph (f) should read as follows:

(f) *Expiration date.* This order shall expire at 12:01 a. m., February 23, 1945, unless otherwise modified, changed, suspended or annulled by order of this Commission. (49 Stat. 101, secs. 402, 418; 41 Stat. 476, 485, secs. 4, 10; 54 Stat. 901, 912; 49 U. S. C. 1 (10)-(17))

OFFICE OF ALIEN PROPERTY CUSTODIAN.

[Vesting Order 37, Amendatory and Supp. Order 1]

BISLERI CO., INC.

First. Under the authority of the Trading with the Enemy Act, as amended, and the authority vested by the President in the Alien Property Custodian, and pursuant to law, the Alien Property Custodian:

(A) On June 30, 1942, issued Vesting Order Number 37 (7 F.R. 5073) finding, among other things, that 697 shares of the common capital stock of Bisleri Company, Inc., a New York corporation, registered in the names of S. A. Felice Bisleri & Cia., Milan, Italy, (695 shares) and Michele Bonelli, Milan, Italy, (2 shares) were the property of Nationals of a Foreign Country, as defined in Executive Order No. 8389, as amended, and declaring that such property, including any and all interest therein was vested in the Alien Property Custodian;

(B) Hereby amends Vesting Order Number 37 as follows and not otherwise by finding and determining that the "Nationals of a Foreign Country" therein mentioned were at the time of vesting and now are S. A. Felice Bisleri & Cia., and Michele Bonelli, and that they are nationals of a foreign country, namely, Italy.

Second. (A) To the extent, if any, that any of the property listed in section First hereof, and full, complete and unqualified legal and equitable title, therein and thereto, was not vested in the Alien Property Custodian by Vesting Order Number 37, dated June 30, 1942, the Alien Property Custodian, under the authority of the Trading with the Enemy Act, as amended, and Executive Order No. 9095, as amended, and pursuant to law, after investigation, finding:

1. That of the total issued and outstanding common capital stock of Bisleri Company, Inc., a corporation organized under the laws of the State of New York and a business enterprise within the United States, consisting of 700 shares, 697 (99.57%) were, prior to June 30, 1942, registered in the names of and owned by the persons listed below, in the amounts appearing opposite each name, and are evidence of control of said business enterprise:

Names:	*Number of shares*
S. A. Felice Bisleri & Cia	695
Michele Bonelli	2
	697

2. That the last known addresses of S. A. Felice Bisleri & Cia., and Michele Bonelli are Milan, Italy, and that they are residents of Italy and nationals of a designated enemy country (Italy);

and determining:

3. That Bisleri Company, Inc., is controlled by S. A. Felice Bisleri & Cia., and Michele Bonelli, and is a national of a designated enemy country (Italy);

4. That to the extent that such nationals are persons not within a designated enemy country; the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Italy);

and having made all determinations and taken all action required by law, including appropriate consultation and certification, and deeming it necessary in the national interest,

hereby vests in the Alien Property Custodian the 697 shares of common capital stock of Bisleri Company, Inc., described above, together with any declared and unpaid dividends thereon, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest and for the benefit of the United States.

(B) Such property so vested by paragraph (A) of this section Second and any or all of the proceeds thereof shall be held in an appropriate account or accounts, pending further determination of the Alien Property Custodian. This order shall not be deemed to limit the power of the Alien Property Custodian to return such property or the proceeds thereof in whole or in part, nor shall it be deemed to indicate that compensation will not be paid in lieu thereof, if and when it should be determined to take any one or all of such actions.

(C) Any person except a national of a designated enemy country, asserting any claim arising as a result of this amendatory and supplemental order may, within one year from the date hereof, or within such further time as may be allowed, file with the Alien Property Custodian on Form APC-1 a notice of claim, together with a request for a hearing thereon. Nothing herein contained shall be deemed to constitute an admission of the exist-

ence, validity or right to allowance of any such claim.

(D) The terms "national", "designated enemy country" and "business enterprise within the United States", as used herein, shall have the meanings prescribed in section 10 of Executive Order No. 9095, as amended.

Third. This amendatory and supplemental order is corrective of and supplemental to, and in no way diminishes, restricts or limits the force and effect of said Vesting Order Number 37, (7 F.R. 5078) and nothing herein contained shall diminish, restrict or limit any rights, titles, or interests vested in the undersigned, as Alien Property Custodian, pursuant to said Vesting Order Number 37.

Executed at Washington, D. C. on January 23, 1945.

[SEAL] JAMES E. MARKHAM,
Alien Property Custodian.

[F. R. Doc. 45-1530; Filed, Jan. 25, 1945; 11:33 a. m.]

[Vesting Order 4231, Amdt.]

J. M. VOITH, MASCHINENFABRIK

In re: Claim of J. M. Voith, Maschinenfabrik, Heidenheim/Brenz, against American Voith Contact Co., Inc.

Vesting Order No. 4231, dated October 24, 1944, is hereby amended as follows and not otherwise:

By deleting subparagraph 3 (b) of said vesting order and substituting therefor the following:

(b) The sum of $11,035.32 received by American Voith Contact Co., Inc., on or about March 17, 1941, and shown on the books of said company as royalties received from S. Morgan Smith Co.

All other provisions of said Vesting Order No. 4231 and all action taken on behalf of the undersigned in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on January 23, 1945.

[SEAL] JAMES E. MARKHAM,
Alien Property Custodian.

[F. R. Doc. 45-1528; Filed, Jan. 25, 1945; 11:33 a. m.]

RADIO PATENTS CORPORATION

ORDER FOR AND NOTICE OF HEARING

Whereas, by Vesting Order No. 27, dated June 18, 1942 (7 F.R. 4629) the Alien Property Custodian vested, among other things, Patent No. 2,078,618 and recited that said patent was the property of Berthold Springer, a national of a foreign country (Germany); and

Whereas, Radio Patents Corporation filed a notice of claim on Form APC-1, Claim No. 674, in which it asserts that it is the owner of a one-half interest in the above-described patent on the basis of an alleged agreement, dated September 7, 1934, with Richard Jahre and that it is a corporation incorporated under the laws of the State of New York, having its principal place of business at 10 East 40th Street, New York City, New York, and

Now therefore, it is ordered, Pursuant to the regulations heretofore issued by the Alien Property Custodian, as amended (8 F.R. 16709), that a hearing thereon be held before the Vested Property Claims Committee or any member or members thereof on Thursday, February 15, 1945, at 10:00 a. m. Eastern War Time, Office of Alien Property Custodian, 120 Broadway, New York 5, New York, to continue thereafter at such times and places as the Vested Property Claims Committee may determine. *It is further ordered,* That copies of this notice of hearing be served by registered mail on the person designated in paragraph 2 of the said notice of claim, and be filed with the Division of the Federal Register.

Any person desiring to be heard either in support of or in opposition to the claim may appear at the hearing and is requested to notify the Vested Property Claims Committee, Office of Alien Property Custodian, National Press Building, 14th and F Streets, N.W., Washington (25), D. C. on or before February 10, 1945.

The foregoing characterization of the claim is for informational purposes only, and shall not be construed to constitute an admission or an adjudication by the Office of Alien Property Custodian as to the nature or validity of the claim. Copies of the claim and of the said vesting order are available for public inspection at the address last above stated.

By authority of the Alien Property Custodian.

[SEAL] VESTED PROPERTY CLAIMS COMMITTEE,
JOHN C. FITZGERALD,
Chairman.

JANUARY 24, 1945.

[F. R. Doc. 45-1529; Filed, Jan. 25, 1945; 11:33 a. m.]

OFFICE OF DEFENSE TRANSPORTATION.

[Supp. Order ODT 3, Rev.-212, Amdt. 1]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN MINNESOTA

Upon consideration of a petition for the amendment of Supplementary Order ODT 3, Revised-212 (9 F.R. 3470), filed with the Office of Defense Transportation by the carriers subject thereto, and good cause appearing therefor,

It is hereby ordered, That Supplementary Order ODT 3, Revised-212, be, and it is hereby, amended by eliminating Lake Superior Motor Freight of Duluth, Minnesota, as a carrier subject thereto, and by substituting in lieu thereof Donovan E. Brazell, doing busines as Brazell Motor Freight of Grand Marais, Minnesota.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

[F. R. Doc. 45-1479; Filed, Jan. 24, 1945; 3:25 p. m.]

[Supp. Order ODT 3, Rev. 501]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN GEORGIA

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 2793, 3264, 3357, 6778), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered,* That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith

[1] Filed as part of the original document.

shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. Withdrawal of a carrier from participation in the plan for joint action hereby approved shall not be made without prior approval of the Office of Defense Transportation.

7. The provisions of this order shall be binding upon any successor in interest to any carrier named in this order. Upon a transfer of any operation involved in this order, the successor in interest and the other carriers named in this order forthwith shall notify, in writing, the Office of Defense Transportation of the transfer and, unless and until otherwise ordered, the successor in interest shall perform the functions of his predecessor in accordance with the provisions of this order.

8. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

9. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Highway Transport Department, Office of Defense Transportation, Washington 25, D. C.

This order shall become effective January 29, 1945, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

APPENDIX 1

W. H. Chambers, doing business as W. H. Chambers Transfer Co., Gainesville, Ga.
W. I. Glaze, doing business as Gainesville Transportation Co., Gainesville, Ga.

[F. R. Doc. 45-1480; Filed, Jan. 24, 1945; 3:26 p. m.]

[Supp. Order ODT 3, Rev. 502]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN MISSISSIPPI

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 2793, 3264, 3357, 6778), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

[1] Filed as part of the original document.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. Withdrawal of a carrier from participation in the plan for joint action hereby approved shall not be made without prior approval of the Office of Defense Transportation.

7. The provisions of this order shall be binding upon any successor in interest to any carrier named in this order. Upon a transfer of any operation involved in this order, the successor in interest and the other carriers named in this order forthwith shall notify, in writing, the Office of Defense Transportation of the transfer and, unless and until otherwise ordered, the successor in interest shall perform the functions of his predecessor in accordance with the provisions of this order.

8. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

9. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Highway Transport Department, Office of Defense Transportation, Washington 25, D. C.

This order shall become effective January 29, 1945, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

APPENDIX 1

H. & L. Delivery Service, Inc., Hattiesburg, Miss.
Holloway Trucking & Supply Co., Hattiesburg, Miss.

[F. R. Doc. 45-1481; Filed, Jan. 24, 1945; 3:26 p. m.]

[Supp. Order ODT 3, Rev. 503]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN GEORGIA

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 2793, 3264, 3357, 6778), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment,

and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. Withdrawal of a carrier from participation in the plan for joint action hereby approved shall not be made without prior approval of the Office of Defense Transportation.

7. The provisions of this order shall be binding upon any successor in interest to any carrier named in this order. Upon a transfer of any operation involved in this order, the successor in interest and the other carriers named in this order forthwith shall notify, in writing, the Office of Defense Transportation of the transfer and, unless and until otherwise ordered, the successor in interest shall perform the functions of his predecessor in accordance with the provisions of this order.

8. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

9. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Highway Transport Department, Office of Defense Transportation, Washington 25, D. C.

This order shall become effective January 29, 1945, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

APPENDIX 1

C. S. Newman, Newnan, Ga.
R. S. Newman, doing business as Newman Transfer Co., Newnan, Ga.
G. B. Sewell, doing business as Sewell Transfer, Newnan, Ga.
Tom Ball, Newnan, Ga.

[F. R. Doc. 45-1482; Filed, Jan. 24, 1945; 3:25 p. m.]

[Supp. Order ODT 3, Rev. 504]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN SALT LAKE CITY AND OGDEN, UTAH, AND EVANSTON, WYO.

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 2793, 3264, 3357, 6778), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. Withdrawal of a carrier from participation in the plan for joint action hereby approved shall not be made without prior approval of the Office of Defense Transportation.

7. The provisions of this order shall be binding upon any successor in interest to any carrier named in this order. Upon a transfer of any operation in-

[1] Filed as part of the original document.

volved in this order, the successor in interest and the other carriers named in this order forthwith shall notify, in writing, the Office of Defense Transportation of the transfer and, unless and until otherwise ordered, the successor in interest shall perform the functions of his predecessor in accordance with the provisions of this order.

8. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

9. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Highway Transport Department, Office of Defense Transportation, Washington 25, D. C.

This order shall become effective January 29, 1945, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

APPENDIX 1

Star Transportation Company, Salt Lake City, Utah.

William H. Burdett and J. Glen Burdett, copartners, doing business as Burdett Transfer Company, Evanston, Wyo.

[F. R. Doc. 45-1483; Filed, Jan. 24, 1945; 3:25 p. m.]

[Supp. Order ODT 3, Rev. 505]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN NEW YORK AND SYRACUSE, N. Y.

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 2793, 3264, 3357, 6778), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defenese Transportation.

6. Withdrawal of a carrier from participation in the plan for joint action hereby approved shall not be made without prior approval of the Office of Defense Transportation.

7. The provisions of this order shall be binding upon any successor in interest to any carrier named in this order. Upon a transfer of any operation involved in this order, the successor in interest and the other carriers named in this order forthwith shall notify, in writing, the Office of Defense Transportation of the transfer and, unless and until otherwise ordered, the successor in interest shall perform the functions of his predecessor in accordance with the provisions of this order.

8. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

9. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and unless otherwise directed, should be addressed to the Highway Transport Department, Office of Defense Transportation, Washington 25, D. C.

This order shall become effective January 29, 1945, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

APPENDIX 1

Rosario Spinella, doing business as Spinella Freight Lines, Syracuse, N. Y.

Leo D. Burden and Dorothy M. Cummins as Administratrix of the Estate of Frank V. Cummins, deceased, doing business as American Motor Freight Lines, New York, N. Y.

[F. R. Doc. 45-1484; Filed, Jan. 24, 1945; 3:26 p. m.]

[Supp. Order ODT 3, Rev. 506]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN GEORGIA

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 2793, 3264, 3357, 6778), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions, which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and con-

[1] Filed as part of the original document.

tinue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. Withdrawal of a carrier from participation in the plan for joint action hereby approved shall not be made without prior approval of the Office of Defense Transportation.

7. The provisions of this order shall be binding upon any successor in interest to any carrier named in this order. Upon a transfer of any operation involved in this order, the successor in interest and the other carriers named in this order forthwith shall notify, in writing, the Office of Defense Transportation of the transfer and, unless and until otherwise ordered, the successor in interest shall perform the functions of his predecessor in accordance with the provisions of this order.

8. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

9. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Highway Transport Department, Office of Defense Transportation, Washington 25, D. C.

This order shall become effective January 29, 1945, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

APPENDIX 1

E. L. Hunsucker, doing business as Dalton Trucking Co., Dalton, Georgia.
G. L. Stoner, doing business as Stoner Transfer Co., Dalton, Georgia.

[F. R. Doc. 45-1485; Filed, Jan. 24, 1945; 3:26 p. m.]

[Supp. Order ODT 3, Rev. 508]

COMMON CARRIERS

COORDINATED OPERATIONS BETWEEN POINTS IN NORTH CAROLINA

Upon consideration of a plan for joint action filed with the Office of Defense Transportation by the persons named in Appendix 1 hereof to facilitate compliance with the requirements and purposes of General Order ODT 3, Revised, as amended (7 F.R. 5445, 6689, 7694; 8 F.R. 4660, 14582; 9 F.R. 2793, 3264, 3357, 6778), a copy of which plan is attached hereto as Appendix 2,[1] and

It appearing that the proposed coordination of operations is necessary in order to assure maximum utilization of the facilities, services, and equipment, and to conserve and providently utilize vital equipment, materials, and supplies, of the carriers, and to provide for the prompt and continuous movement of necessary traffic, the attainment of which purposes is essential to the successful prosecution of the war, *It is hereby ordered*, That:

1. The plan for joint action above referred to is hereby approved and the carriers are directed to put the plan in operation forthwith, subject to the following provisions which shall supersede any provisions of such plan that are in conflict therewith.

2. Each of the carriers forthwith shall file a copy of this order with the appropriate regulatory body or bodies having jurisdiction over any operations affected by this order, and likewise shall file, and publish in accordance with law, and continue in effect until further order, tariffs or supplements to filed tariffs, setting forth any changes in rates, charges, operations, rules, regulations, and practices of the carrier which may be necessary to accord with the provisions of this order and of such plan; and forthwith shall apply to such regulatory body or bodies for special permission for such tariffs or supplements to become effective on the shortest notice lawfully permissible, but not prior to the effective date of this order.

3. Whenever transportation service is performed by one carrier in lieu of service by another carrier, by reason of a diversion, exchange, pooling, or similar act made or performed pursuant to the plan for joint action hereby approved, the rates, charges, rules, and regulations governing such service shall be those that would have applied except for such diversion, exchange, pooling, or other act.

4. The provisions of this order shall not be so construed or applied as to require any carrier subject hereto to perform any service beyond its transportation capacity, or to authorize or require any act or omission which is in violation of any law or regulation, or to permit any carrier to alter its legal liability to any shipper. In the event that compliance with any term of this order, or effectuation of any provision of such plan, would conflict with, or would not be authorized under, the existing interstate or intrastate operating authority of any carrier subject hereto, such carrier forthwith shall apply to the appropriate regulatory body or bodies for the granting of such operating authority as may be requisite to compliance with the terms of this order, and shall prosecute such application with all possible diligence. The coordination of operations directed by this order shall be subject to the carriers' possessing or obtaining the requisite operating authority.

5. All records of the carriers pertaining to any transportation performed pursuant to this order and to the provisions of such plan shall be kept available for examination and inspection at all reasonable times by accredited representatives of the Office of Defense Transportation.

6. Withdrawal of a carrier from participation in the plan for joint action hereby approved shall not be made without prior approval of the Office of Defense Transportation.

7. The provisions of this order shall be binding upon any successor in interest to any carrier named in this order. Upon a transfer of any operation involved in this order, the successor in interest and the other carriers named in this order forthwith shall notify, in writing, the Office of Defense Transportation of the transfer and, unless and until otherwise ordered, the successor in interest shall perform the functions of his predecessor in accordance with the provisions of this order.

8. The plan for joint action hereby approved and all contractual arrangements made by the carriers to effectuate the plan shall not continue in operation beyond the effective period of this order.

[1] Filed as part of the original document.

9. Communications concerning this order should refer to it by the supplementary order number which appears in the caption hereof, and, unless otherwise directed, should be addressed to the Highway Transport Department, Office of Defense Transportation, Washington 25, D. C.

This order shall become effective January 29, 1945, and shall remain in full force and effect until the termination of the present war shall have been duly proclaimed, or until such earlier time as the Office of Defense Transportation by further order may designate.

Issued at Washington, D. C., this 25th day of January 1945.

J. M. JOHNSON,
Director,
Office of Defense Transportation.

APPENDIX 1

E. L. Warren, doing business as Warren's Transfer Company, Raleigh, North Carolina.
S. M. Hobby, Raleigh, North Carolina.

[F. R. Doc. 45-1486; Filed, Jan. 24, 1945; 3:27 p. m.]

OFFICE OF PRICE ADMINISTRATION.

[MPR 120, Order 1268]

LANDREY & TEEGARDEN COAL CO.

ESTABLISHMENT OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and in accordance with § 1340.210 (a) (6) of Maximum Price Regulation No. 120; *It is ordered:*

(a) The Lamar Block Coal Mine of Landrey & Teegarden Coal Company, Columbus, Indiana, is hereby assigned Mine Index No. 2018 and its coals are classified in Maximum Rail Price Group No. 17 and in Maximum Truck Price Group No. 1.

(b) Coals produced by Landrey & Teegarden Coal Company from the Brazil Block Vein at its Lamar Block Coal Mine, a deep and strip mine, Mine Index No. 2018, located in Spencer County, Indiana, in the Boonville Subdistrict of District No. 11, may be purchased and sold for the indicated uses and movements at per net ton prices in cents per net ton not exceeding the following:

	Size group No.													
	1, 2, 3	4, 5, 6, 8	7	9, 10, 11, 12	17, 18, 19, 20, 21, 22	13, 14	23, 24	26, 27	30, 31	15	25	28, 29	32	16
Rail shipments	385	365	355	335	350	200	225	215	220	160	195	180	185	130
Truck shipments	385	325	290	260	275	230	255	245	250	155	190	175	180	125

RAILROAD LOCOMOTIVE FUEL

Mine run, modified mine run and all lump and all double-screened coals	240
Screenings, top size not exceeding 2"	165

(c) The prices established herein are f. o. b. the mine or preparation plant for truck shipments, and f. o. b. the rail shipping point for rail shipments and for railroad locomotive fuel.

(d) All prayers of applicant not granted herein are hereby denied.

(e) This order may be revoked or amended at any time.

(f) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to terms used herein.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1470; Filed, Jan. 24, 1945; 11:37 a. m.]

[MPR 120, Order 1270]

GUY S. MARTIN

ESTABLISHMENT OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and in accordance with § 1340.210 (a) (6) of Maximum Price Regulation No. 120: *It is ordered:*

(a) The Martin No. 1 Mine of Guy S. Martin, St. Louis, Missouri, is hereby assigned Mine Index No. 2003, and its coals are classified in Maximum Rail Price Group No. 5 and in Maximum Truck Price Group No. 17-B-1.

(b) Coals produced by Guy S. Martin from the No. 6 Seam at his Martin No. 1 Mine, a strip mine, Mine Index No. 2003, located in Williamson County Illinois, in the Southern Subdistrict of District No. 10, may be purchased and sold for the indicated uses and movements at per net ton prices in cents per net ton not exceeding the following:

	Size group No.												
	1	2	3	4	5	6	7	8	9, 10, 11, 12	13, 14	15	16	26, 27
Rail shipments (all uses)	260	260	260	250	250	250	(1)	250	210	175	110	95	185
Truck shipments	320	320	320	305	305	295	285	265	265	235	170	------	250

[1] Size group No. 7—Rail shipments:

Railroad locomotive fuel use	250
All other uses	215

(c) The prices established herein are f. o. b. the mine or preparation plant for truck shipments, and f. o. b. the rail shipping point for rail shipments and for railroad locomotive fuel.

(d) All prayers of applicant not granted herein are hereby denied.

(e) This order may be revoked or amended at any time.

(f) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to terms used herein.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4781)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1471; Filed, Jan. 24, 1945; 11:38 a. m.]

[MPR 188, Rev. Order 2155]

KILGEN ORGAN CO.

APPROVAL OF MAXIMUM PRICES

Order No. 2155 under § 1499.158 of Maximum Price Regulation No. 188 is revised and amended to read as follows:

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to § 1499.158 of MPR 188; *It is ordered:*

(a) This revised order establishes maximum prices for sales and deliveries, of a bed tray manufactured by the Kilgen Organ Company, 4632 W. Florissant Avenue, St. Louis, Missouri.

(1) (i) For all sales and deliveries since the effective date of Maximum Price Regulation No. 188, by the manufacturer to retailers, and by the manufacturer to persons, other than retailers, who resell from the manufacturer's stock, the maximum prices are those set forth below:

Article	Maximum price to persons, other than retailers, who resell from manufacturer's stock	Maximum price to retailers
Bed tray	*Each* $1.70	*Each* $2.00

These prices are f. o. b. factory, and are for the article described in the manufacturer's application dated June 30, 1944.

(ii) For all sales and deliveries by the manufacturer to any other class of purchaser or on other terms and conditions of sale, the maximum prices shall be those determined by applying to the prices specified, the discounts, allowances, and other price differentials made by the manufacturer, during March 1942, on sales of the same type of article to the same class of purchaser and on the same terms and conditions. If the manufacturer did not make such sales during March 1942 he must apply to the Office of Price Administration, Washington, D. C.,

under the Fourth Pricing Method § 1499.158, of Maximum Price Regulation No. 188, for the establishment of maximum prices for those sales, and no sales or deliveries may be made until authorized by the Office of Price Administration.

(2) (i) For all sales and deliveries on and after the effective date of this revised order to retailers by persons, other than the manufacturer, who sell from the manufacturer's stock, the maximum price is that set forth below, f. o. b. factory:

Article:	*Maximum price to retailers (each)*
Bed tray	$2

This price is for the article described in the manufacturer's application dated June 30, 1944.

(ii) For all sales and deliveries by persons who sell from the manufacturer's stock, to any other class of purchaser or on other terms and conditions of sale, maximum prices shall be determined under the applicable provisions of the General Maximum Price Regulation.

(b) At the time of or prior to the first invoice to each purchaser, other than a retailer, who resells from the manufacturer's stock, the manufacturer shall notify the purchaser for resale of the maximum prices and conditions established by subparagraph (a) (2) of this revised order for such resales. This notice may be given in any convenient form.

(c) This revised order may be revoked or amended by the Price Administrator at any time.

This revised order shall become effective on the 25th day of January 1945.

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1472; Filed, Jan. 24, 1945; 11:38 a. m.]

[MPR 188, Order 3329]

GREGSON MANUFACTURING CO.

APPROVAL OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to § 1499.158 of MPR 188; *It is ordered:*

(a) This order establishes maximum prices for sales and deliveries, of a dinette table and a dinette chair manufactured by Gregson Manufacturing Company, Liberty, North Carolina.

(1) (i) For all sales and deliveries since the effective date of Maximum Price Regulation No. 188, by the manufacturer to retailers, and by the manufacturer to persons, other than retailers, who resell from the manufacturer's stock, the maximum prices are those set forth below:

Article	Mode. No.	Maximum price to persons, other than retailers, who resell from manufacturer's stock	Maximum price to retailers
		Each	*Each*
Dinette table	800	$9.27	$10.90
Dinette chair	800	2.47	2.90

These prices are f. o. b. factory, and are subject to a discount of two percent for payment within ten days, net thirty days, and are for the articles described in the manufacturer's application dated November 10, 1944.

(ii) For all sales and deliveries by the manufacturer to any other class of purchaser or on other terms and conditions of sale, the maximum prices shall be those determined by applying to the prices specified, the discounts, allowances, and other price differentials made by the manufacturer, during March 1942, on sales of the same type of article to the same class of purchaser and on the same terms and conditions. If the manufacturer did not make such sales during March 1942 he must apply to the Office of Price Administration, Washington, D. C., under the Fourth Pricing Method § 1499.158, of Maximum Price Regulation No. 188, for the establishment of maximum prices for those sales, and no sales or deliveries may be made until authorized by the Office of Price Administration.

(2) (i) For all sales and deliveries on and after the effective date of this order to retailers by persons, other than the manufacturer, who sell from the manufacturer's stock, the maximum prices are those set forth below, f. o. b. factory:

Article and Model No.:	*Maximum price to retailers (each)*
Dinette table, 800	$10.90
Dinette chair, 800	2.90

These prices are subject to a cash discount of two percent for payment within ten days, net thirty days, and are for the articles described in the manufacturer's application dated November 10, 1944.

(ii) For all sales and deliveries by persons who sell from the manufacturer's stock, to any other class of purchaser or on other terms and conditions of sale, maximum prices shall be determined under the applicable provisions of the General Maximum Price Regulation.

(b) At the time of or prior to the first invoice to each purchaser, other than a retailer, who resells from the manufacturer's stock, the manufacturer shall notify the purchaser for resale of the maximum prices and conditions established by subparagraph (a) (2) of this order for such resales. This notice may be given in any convenient form.

(c) This order may be revoked or amended by the Price Administrator at any time.

This order shall become effective on the 25th day of January 1945.

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1473; Filed, Jan. 24, 1945; 11:38 a. m.]

[RMPR 506, Order 68]

BOSS MANUFACTURING CO., ET AL.

APPROVAL OF MAXIMUM PRICES

Order No. 68 under section 4 (b) of Revised Maximum Price Regulation 506. Maximum prices for staple work gloves. Granting maximum prices to the Boss Manufacturing Company and other sellers. Docket No. N60627-506-87-7.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

(a) On and after January 25, 1945, the ceiling prices under Revised Maximum Price Regulation 506 at which the Boss Manufacturing Company (Kewanee, Illinois) may sell or deliver to any purchaser, and such purchaser may buy from it, the three "army reject and second" staple work glove numbers enumerated in the table below, are the prices set forth in this table. These ceiling prices, however, are subject to the provisions of Supplementary Order 96—Maximum prices of certain goods rejected or not delivered under a war procurement contract.

Style No.	Glove description	Manufacturer's prices	
		Group I ceiling	Group II ceiling
G38	Men's 10 ounce canton flannel, single thickness back and palm, "Army rejects and seconds", 4" knit wrist	$1.425	$1.55
G41	Men's extra large 10½ ounce natural jersey, single thickness back and palm, "Army rejects and seconds", 6" knit wrist	1.65	1.80
G47	Women's 10½ ounce natural jersey, single thickness back and palm, "Army rejects and seconds", 6" knit wrist	1.575	1.725

(b) The ceiling prices for "regular sales" at wholesale of each glove number shall be determined by dividing the lower of the Group I ceiling price listed above for that glove or its "adjusted contract price" (as that term is defined in paragraph (d) of Supplementary Order 96), by .839 (round the result to the nearest 2½ cents). Ceiling prices for "special sales" at wholesale shall be determined in accordance with section 3 (b) of Revised Maximum Price Regulation 506.

(c) The ceiling prices authorized under this order are subject to the following:

(1) The instructions for manufacturers and wholesalers which preface the tables in Appendix A of Revised Maximum Price Regulation 506;

(2) The provisions in section 4 (a) of Revised Maximum Price Regulation 506 with respect to a manufacturer's "wholesale percentage", and the quota of deliveries which must be made at Group I prices;

(3) The marking and informational requirements of Section 6 of Revised Maximum Price Regulation 506. In addition to these requirements, the Boss Manufacturing Company, on all deliveries of the style numbers listed in paragraph (a), made pursuant to this order, on and after January 25, 1945, must place the letter "S" following the lot number or brand name stated on the label, ticket, or other device used to mark the gloves.

(4) The definitions in Revised Maximum Price Regulation 506.

(d) The Boss Manufacturing Company must furnish each of its customers, who, on or after January 25, 1945, purchases the style numbers listed in para-

graph (a) for purposes of resale, a notice in the form set forth below. The notice may be attached to the invoice or may be stamped or printed on the invoice.

This notice is sent to you as required by Order No. 68 under section 4 (b) of Revised Maximum Price Regulation 506 issued by the Office of Price Administration. It lists ceiling prices fixed by OPA, pursuant to Revised Maximum Price Regulation 506 and Supplementary Order 96—Maximum Prices of Certain Goods Rejected or Not Delivered Under a War Procurement Contract, for the "army reject and seconds" work glove numbers enumerated in the table below, manufactured by the Boss Manufacturing Company.

OPA has ruled that the Boss Manufacturing Company may sell these numbers at or below the prices listed in Column A below, subject to the provisions of section 4 (a) of Revised Maximum Price Regulation 506 with respect to the quota of deliveries which must be made at Group I prices. Wholesalers in turn are authorized to make regular sales at wholesale of these numbers at or below the prices listed in Column B. Retailers will determine their ceiling prices on these numbers in accordance with section 2 of Revised Maximum Price Regulation 506.

Style No.	Column A—Manufacturer's prices	Column B—Wholesalers' prices
G38–S.. G41–S.. G47–S..	[List, for each number, the prices authorized under paragraph (a), or the "adjusted contract price" (defined in Supplementary Order 96), whichever is lower.]	[List, for each number, the result obtained by dividing the lower of the Group I ceiling authorized under paragraph (a), or its "adjusted contract price", by .839.]

You will note that the letter "S" follows the manufacturer's lot number or brand name. This letter indicates that these gloves have been specifically priced by OPA under section 4 (b).

(c) This Order No. 68 under Revised Maximum Price Regulation 506 may be revoked or amended by the Price Administrator at any time.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45–1466; Filed, Jan. 24, 1945; 11:36 a. m.]

[RMPR 506, Order 69]

RAIDT MANUFACTURING CO., ET AL.

APPROVAL OF MAXIMUM PRICES

Order No. 69 under section 4 (b) of Revised Maximum Price Regulation 506. Maximum prices for staple work gloves. Granting maximum prices to the Raidt Manufacturing Company and other sellers. Docket No. N60627–506–81–7.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

(a) On and after January 25, 1945, the Raidt Mfg. Company, Shenandoah, Iowa, may sell and deliver to any purchaser, and such purchaser may buy from it, the staple work glove numbers enumerated in the following table at or below the prices set forth in Column A of this table. Wholesalers who purchase these numbers from the Raidt Mfg. Company may make "regular sales" at wholesale of such gloves, at or below the prices set forth in Column B of the table. Ceiling prices for "special sales" at wholesale shall be determined in accordance with section 3 (b) of Revised Maximum Price Regulation 506.

Style No.	Glove description	Column A Manufacturer's prices		Column B
		Group I ceiling	Group II ceiling	Wholesalers' prices
F722	Men's fourchette cut 12 ounce white nap out canton flannel single thickness back and palm two thumb husking glove, 8 ounce flannel thumb patches, knit wrist	$2.40	$2.57½	$2.85
F822	Men's 12 ounce white nap out canton flannel single thickness back and palm two thumb husking mitten 8 ounce flannel thumb patches, knit wrist	2.32½	2.52½	2.77½

(b) The maximum prices authorized in paragraph (a) are subject to the following:

(1) The instructions for manufacturers and wholesalers which preface the tables in Appendix A of RMPR 506, including those relating to the pricing of "seconds."

(2) The provisions in section 4 (a) of RMPR 506 with respect to a manufacturers' "wholesale percentage", and the quota of deliveries which must be made at Group I prices;

(3) The marking and informational requirements of section 6 of RMPR 506. In addition to these requirements, the Raidt Mfg. Company, on all deliveries of the style numbers listed in paragraph (a), made pursuant to this order, on and after January 25, 1945, must place the letter "S" following the lot number or brand name stated on the label, ticket, or other device used to mark the gloves.

(c) The definitions in RMPR 506 shall apply to this order.

(d) The Raidt Mfg. Company must furnish each of its customers, who, on or after January 25, 1945, purchases the style numbers listed in paragraph (a) for purposes of resale, a notice in the form set forth below. The Raidt Mfg. Company must also notify each such customer (other than a seller at retail) that he is required in turn to transmit to his customers a copy of the notice set forth below. The notice may be attached to the invoice or may be stamped or printed on the invoice.

This notice is sent to you as required by Order No. 69 under section 4 (b) of Revised Maximum Price Regulation 506 issued by the Office of Price Administration. It lists ceiling prices fixed by OPA for the work glove numbers enumerated in the table below, manufactured by the Raidt Manufacturing Company.

OPA has ruled that the Raidt Mfg. Company may sell these numbers at or below the prices listed in Column A below, subject to the provisions of section 4 (a) of RMPR 506 with respect to the quota of deliveries which must be made at Group I prices. Wholesalers in turn are authorized to make regular sales at wholesale of these numbers at or below the prices listed in Column B. Retailers will determine their ceiling prices on these numbers in accordance with section 2 of RMPR 506.

Style No.	Column A Manufacturer's prices		Column B
	Group I ceiling	Group II ceiling	Wholesalers' prices
F722–S	$2.40	$2.57½	$2.85
F822–S	2.32½	2.52½	2.77½

You will note that the letter "S" follows the manufacturers' lot number or brand name. This letter indicates that these gloves have been specially priced by OPA under section 4 (b).

(e) This order No. 69 under Revised Maximum Price Regulation 506 may be revoked or amended by the Price Administrator at any time.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45–1467; Filed, Jan. 24, 1945; 11:36 a. m.]

[RMPR 506, Order 71]

ADVANCE GLOVE MANUFACTURING CO., ET AL.

APPROVAL OF MAXIMUM PRICES

Order No. 71 under section 4 (b) of Revised Maximum Price Regulation 506. Maximum prices for staple work gloves. Granting maximum prices to the Advance Glove Manufacturing Company and other sellers. Docket No. 60627–506 4 (a) (3)–2.

For the reasons set forth in an opinion issued simultaneously herewith, *It is ordered:*

(a) On and after January 25, 1945, the Advance Glove Manufacturing Company, 901 West Lafayette Boulevard, Detroit, Michigan, may sell and deliver to any purchaser, and such purchaser may buy from it, the staple work glove number enumerated in the following table at or below the prices set forth in Column A of this table. Wholesalers who purchase this number from the Advance Glove Manufacturing Company may make "regular sales" at wholesale of such glove, at or below the price set forth in Column B of the table. Ceiling prices for "special sales" at wholesale shall be determined in accordance with section 3 (b) of Revised Maximum Price Regulation 506.

Style No.	Glove description	Column A Manufacturer's prices		Column B
		Group I ceiling	Group II ceiling	Wholesalers' prices
384F	Men's clute cut 8 ounce golden fleece single thickness back and palm, knit wrist	$1.67½	$1.82½	$2.00

(b) The maximum prices authorized in paragraph (a) are subject to the following:

(1) The instructions for manufacturers and wholesalers which preface the tables in Appendix A of RMPR 506, including those relating to the pricing of "seconds."

(2) The provisions in section 4 (a) of RMPR 506 with respect to a manufacturers' "wholesale percentage", and the quota of deliveries which must be made at Group I prices;

(3) The marking and informational requirements of section 6 of RMPR 506. In addition to these requirements, the Advance Glove Manufacturing Company, on all deliveries of the style number listed in paragraph (a), made pursuant to this order, on and after January 25, 1945, must place the letter "S" following the lot number or brand name stated on the label, ticket, or other device used to mark the gloves.

(c) The definitions in RMPR 506 shall apply to this order.

(d) The Advance Glove Manufacturing Company must furnish each of its customers, who, on or after January 25, 1945, purchases the style number listed in paragraph (a) for purposes of resale, a notice in the form set forth below. The Advance Glove Manufacturing Company must also notify each such customer (other than a seller at retail) that he is required in turn to transmit to his customers a copy of the notice set forth below. The notice may be attached to the invoice or may be stamped or printed on the invoice.

This notice is sent to you as required by Order No. 71 under section 4 (b) of Revised Maximum Price Regulation 506 issued by the Office of Price Administration. It lists ceiling prices fixed by OPA for the work glove number enumerated in the table below, manufactured by the Advance Glove Manufacturing Company.

OPA has ruled that the Advance Glove Manufacturing Company may sell this number at or below the prices listed in Column A below, subject to the provisions of section 4 (a) of RMPR 506 with respect to the quota of deliveries which must be made at Group I prices. Wholesalers in turn are authorized to make regular sales at wholesale of this number at or below the price listed in Column B. Retailers will determine their ceiling prices on this number in accordance with section 2 of RMPR 506.

Style No.	Column A Manufacturer's Prices		Column B
	Group I ceiling	Group II ceiling	Wholesalers' prices
384F-S	$1.67½	$1.82½	$2.00

You will note that the letter "S" follows the manufacturers' lot number or brand name. This letter indicates that these gloves have been specifically priced by OPA under section 4 (b).

(e) This Order No. 71 under Revised Maximum Price Regulation 506 may be revoked or amended by the Price Administrator at any time.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1468; Filed, Jan. 24, 1945; 11:36 a. m.]

[Supp. Order 94, Order 20]

UNITED STATES TREASURY DEPARTMENT, PROCUREMENT DIVISION

SPECIAL MAXIMUM PRICES FOR SALES OF NEW RUBBERIZED APRONS

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and in accordance with section 11 of Supplementary Order 94, it is ordered:

(a) *What this order does.* This order establishes maximum prices at which new rubberized aprons hereinafter described may be sold by United States Treasury Department, Procurement Division, and by any subsequent reseller.

(b) *Maximum prices.* Maximum prices per new rubberized apron described herein shall be:

Article and description	Treasury's price "as is", f. o. b. point of shipment to jobber or wholesaler	Jobber's or wholesaler's price and Treasury's price f. o. b. point of shipment to retailer for apron in good condition	Maximum price for sales to consumers for apron in good condition
New rubberized apron made for the Medical Corps of U. S. Army, 36" long, 33" wide at bottom, 16" across bib, tie strings and neck band of brown tape. Rubber or vinyl resin coated on both sides	$0.80	$1.15	$1.90

(c) *Discounts.* Every seller shall continue to maintain his customary discounts for cash.

(d) *Notification of maximum prices.* Any person who sells the rubberized apron described in paragraph (b) to a retailer, shall notify the retailer of the retailer's maximum reselling price under paragraph (b). This notice may be given in any convenient form.

(e) *Definitions.* (1) "Retailer" means any person whose sales to purchasers for use constitute a substantial part of his total sales.

(2) "Jobber or wholesaler" means any person other than a manufacturer, the major portion of whose sales are to retailers, industrial and institutional users.

(f) *Revocation and amendment.* This order may be revoked or amended at any time.

This order shall become effective January 25, 1945.

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1490; Filed, Jan. 24, 1945; 4:38 p. m.]

[Supp. Order 94, Order 21]

UNITED STATES TREASURY DEPARTMENT, PROCUREMENT DIVISION

SPECIAL MAXIMUM PRICES FOR SALES OF M-2 50-CALIBRE AMMUNITION BOXES

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and in accordance with section 11 of Supplementary Order 94, it is ordered:

(a) *What this order does.* This order establishes maximum prices at which M-2 50-Calibre Ammunition boxes hereinafter described may be sold by United States Treasury Department, Procurement Division, and by any subsequent reseller.

(b) *Maximum prices.* The maximum prices per ammunition box described herein in new condition or having serviceability not less than that of new ammunition boxes shall be:

Article and description	Maximum price for sales to wholesalers, f.o.b. shipping point	Maximum price for sales to retailers, f. o. b. shipping point	Maximum price for sales to consumers by any person
U. S. Army M-2 50-calibre ammunition box, approximately 12" wide, 14" high and 7½" deep	$0.75	$1.00	$1.67

(1) For the purposes of this order an ammunition box has serviceability less than that of new ammunition boxes when it is rusted or dented, cannot be closed, requires painting or other reconditioning, or possesses other similar defects.

(c) *Discounts and allowances.* Every seller shall continue to maintain his customary allowances and discounts.

(d) *Notification of maximum prices.* Any person who sells the ammunition boxes described in paragraph (b) to a retailer shall notify the retailer of the

retailer's maximum reselling price under paragraph (b). This notice may be given in any convenient form.

(e) *Definitions.* (1) "Wholesaler" means any person other than a manufacturer who distributes or sells the ammunition boxes to purchasers other than consumers.

(2) "Retailer" means any person whose sales to purchasers for use constitute a substantial part of his total sales.

(f) *Revocation and amendment.* This order may be revoked or amended at any time.

This order shall become effective January 25, 1945.

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1491; Filed, Jan. 24, 1945; 4:37 p. m.]

[MPR 120, Order 1269]

BRADFORD COAL CO.

APPROVAL OF MAXIMUM PRICES

For the reasons set forth in an opinion issued simultaneously herewith and in accordance with § 1340.210 (a) (6) of Maximum Price Regulation No. 120; *It is ordered:*

(a) The Militant Smokeless Mine of Bradford Coal Company, Bigler, Pennsylvania, is hereby assigned Mine Index No. 5157.

(b) Coals produced by Bradford Coal Company from the B Seam at its Militant Smokeless Mine, a strip mine, Mine Index No. 5157 located in Clearfield County, Pennsylvania in Subdistrict No. 14 of District No. 1 are hereby classified as follows and may be purchased and sold for the indicated uses and movements at per net ton prices in cents per net ton not exceeding the following:

	Size group No.				
	1	2	3	4	5
Price classifications	C	C	C	C	C
Rail shipments	370	365	345	330	333
Truck shipments	375	350	350	340	330
Railroad locomotive fuel	320	320	305	295	295

(c) The prices established herein are f. o. b. the mine or preparation plant for truck shipments, and f. o. b. the rail shipping point for rail shipments and for railroad locomotive fuel.

(d) All prayers of applicant not granted herein are hereby denied.

(e) This order may be revoked or amended at any time.

(f) Order No. 1105 under Maximum Price Regulation No. 120 is hereby revoked.

(g) Unless the context otherwise requires, the definitions set forth in § 1340.208 of Maximum Price Regulation No. 120 shall apply to terms used herein.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1495; Filed, Jan. 24, 1945; 4:38 p. m.]

[RMPR 506, Order 66]

ACORN GLOVE CO., INC.

AUTHORIZATION OF MAXIMUM PRICES

Order No. 66 under section 4 (b) of Revised Maximum Price Regulation 506. Maximum prices for staple work gloves. Granting maximum prices to the Acorn Glove Co., Inc., and other sellers, Docket No. 60627-506.4 (a) (3)-5.

For the reasons set forth in an opinion issued simultaneously herewith; *It is ordered:*

(a) On and after January 25, 1945, the Acorn Glove Co., Inc., Palm, Pennsylvania, may sell and deliver to any purchaser, and such purchaser may buy from it, the staple work glove number enumerated in the following table at or below the prices set forth in Column A of this table. Wholesalers who purchase the number from the Acorn Glove Company, Inc., may make "regular sales" at wholesale of such gloves, at or below the prices set forth in Column B of the table. Ceiling prices for "special sales" at wholesale shall be determined in accordance with section 3 (b) of Revised Maximum Price Regulation 506.

Style No.	Glove description	Column A Manufacturer's prices		Column B
		Group I ceiling	Group II ceiling	Wholesalers' prices
6	Men's clute cut, 6 ounce slate blue single thickness canton flannel back and palm. Knit wrist	$1.55	$1.70	$1.85

(b) The maximum prices authorized in paragraph (a) are subject to the following:

(1) The instructions for manufacturers and wholesalers which preface the tables in Appendix A of RMPR 506;

(2) The provisions in section 4 (a) of RMPR 506 with respect to a manufacturers' "wholesale percentage", and the quota of deliveries which must be made at Group I prices;

(3) The marking and informational requirements of section 6 of RMPR 506. In addition to these requirements, the Acorn Glove Co., Inc., on all deliveries of the style number listed in paragraph (a), made pursuant to this order, on and after January 25, 1945, must place the letter "S" following the lot number or brand name stated on the label, ticket, or other device used to mark the gloves.

(c) The definitions in RMPR 506 shall apply to this order.

(d) The Acorn Glove Co., Inc., must furnish each of its customers, who, on or after January 25, 1945 purchased the style number listed in paragraph (a) for purposes of resale, a notice in the form set forth below. The Acorn Glove Co., Inc., must also notify each such customer (other than a seller at retail) that he is required in turn to transmit to his customers a copy of the notice set forth below. The notice may be attached to the invoice or may be stamped or printed on the invoice.

This notice is sent to you as required by Order No. 66 under section 4 (b) of Revised Maximum Price Regulation 506 issued by the Office of Price Administration. It lists ceiling prices fixed by OPA for the work glove number enumerated in the table below, manufactured by the Acorn Glove Co., Inc.

OPA has ruled that the Acorn Glove Co., Inc. may sell this number at or below the prices listed in Column A below, subject to the provisions of section 4 (a) of RMPR 506 with respect to the quota of deliveries which must be made at Group I prices. Wholesalers in turn are authorized to make regular sales at wholesale of this number at or below the prices listed in Column B. Retailers will determine their ceiling prices on this number in accordance with section 2 of RMPR 506.

Style No.	Column A Manufacturer's prices		Column B
	Group I ceiling	Group II ceiling	Wholesalers' prices
6 S	$1.55	$1.70	$1.85

You will note that the letter "S" follows the manufacturers' lot number or brand name. This letter indicates that these gloves have been specially priced by OPA under section 4 (b).

(e) This Order No. 66 under Revised Maximum Price Regulation 506 may be revoked or amended by the Price Administrator at any time.

This order shall become effective January 25, 1945.

(56 Stat. 23, 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1492; Filed, Jan. 24, 1945; 4:38 p. m.]

[MPR 506, Order 67]

BOOSTER GLOVE CO.

ADJUSTMENT OF MAXIMUM PRICES

Order No. 67 under section 4 (b) of Revised Maximum Price Regulation 506. Maximum prices for staple work gloves. Granting maximum prices to the Booster Glove Company and other sellers; Docket No. 60627-506.4 (a) (3)-3.

For the reasons set forth in an opinion issued simultaneously herewith; *It is ordered:*

(a) On and after January 25, 1945, the Booster Glove Company, 2068 Elston Av-

enue, Chicago, Illinois, may sell and deliver to any purchaser, and such purchaser may buy from it, the staple work glove numbers enumerated in the following table at or below the prices set forth in Column A of this table. Wholesalers who purchase these numbers from the Booster Glove Company may make "regular sales" at wholesale of such gloves, at or below the prices set forth in Column B of the table. Ceiling prices for "specific sales" at wholesale shall be determined in accordance with section 3 (b) of Revised Maximum Price Regulation 506.

Style No.	Glove description	Column A Manufacturer's prices		Column B Wholesalers' prices
		Group I ceiling	Group II ceiling	
10WU	Men's clute cut, split leather palm, ¾ or less leather thumb, 8 ounce canton flannel back, knit wrist	$3.15	$3.45	$3.75
10SCU	Women's clute cut, split leather palm, ¾ or less leather thumb, 8 ounce canton flannel back, knit wrist	3.05	3.35	3.62½
10BU	Men's clute cut, split leather palm, ¾ or less leather thumb, 8 ounce canton flannel back, single safety (not less than 2½" finished)	3.25	3.55	3.87½
10GU	Men's clute cut split leather palm, ¾ or less leather thumb, 8 ounce canton flannel back, single gauntlet (not less than 4½" finished)	3.35	3.65	4.00
10GCU	Women's clute cut split leather palm, ¾ or less leather thumb, 8 ounce canton flannel back, single gauntlet (not less than 4" finished)	3.25	3.55	3.87½

(b) The maximum prices authorized in paragraph (a) are subject to the following:

(1) The instructions for manufacturers and wholesalers which preface the tables in Appendix A of RMPR 506, including those relating to the pricing of "seconds."

(2) The provisions in section 4 (a) of RMPR 506 with respect to a manufacturers' "wholesale percentage," and the quota of deliveries which must be made at Group I prices;

(3) The marking and informational requirements of section 6 of RMPR 506. In addition to these requirements, the Booster Glove Company, on all deliveries of the style numbers listed in paragraph (a), made pursuant to this order, on and after January 25, 1945, must place the letter "S" following the lot number or brand name stated on the label, ticket, or other device used to mark the gloves.

(c) The definitions in RMPR 506 shall apply to this order.

(d) The Booster Glove Company must furnish each of its customers, who, on or after January 25, 1945, purchases the styles numbers listed in paragraph (a) for purposes of resale, a notice in the form set forth below. The Booster Glove Company must also notify each such customer (other than a seller at retail) that he is required in turn to transmit to his customers a copy of the notice set forth below. The notice may be attached to the invoice or may be stamped or printed on the invoice.

This notice is sent to you as required by Order No. 67 under section 4 (b) of Revised Maximum Price Regulation 506 issued by the Office of Price Administration. It lists ceiling prices fixed by OPA for the work glove numbers enumerated in the table below, manufactured by the Booster Glove Company.

OPA has ruled that the Booster Glove Company may sell these numbers at or below the prices listed in Column A below, subject to the provisions of Section 4 (a) of RMPR 506 with respect to the quota of deliveries which must be made at Group I prices. Wholesalers in turn are authorized to make regular sales at wholesale of these numbers at or below the prices listed in Column B. Retailers will determine their ceiling prices on these numbers in accordance with section 2 of RMPR 506.

Style No.	Column A Manufacturer's prices		Column B Wholesalers' prices
	Group I ceiling	Group II ceiling	
10WU-S	$3.15	$3.45	$3.75
10SCU-S	3.05	3.35	3.62½
10BU-S	3.25	3.55	3.87½
10GU-S	3.35	3.65	4.00
10GCU-S	3.25	3.55	3.87½

You will note that the letter "S" follows the manufacturers' lot number or brand name. This letter indicates that these gloves have been specifically priced by OPA under section 4 (b).

(e) This Order No. 67 under Revised Maximum Price Regulation 506 may be revoked or amended by the Price Administrator at any time.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc.–45–1493; Filed, Jan. 24, 1945; 4:39 p. m.]

[MPR 506, Order 70]

RAIDT MANUFACTURING CO.

ADJUSTMENT OF MAXIMUM PRICES

Order No. 70 under section 4 (b) of Revised Maximum Price Regulation 506. Maximum prices for staple work gloves. Granting maximum prices to the Raidt Manufacturing Company and other sellers; Docket No. 60627–506.4 (a) (3)–4.

For the reasons set forth in an opinion issued simultaneously herewith; *It is ordered:*

(a) On and after January 25, 1945, the Raidt Manufacturing Company, Shenandoah, Iowa, may sell and deliver to any purchaser, and such purchaser may buy from it, the staple work glove number enumerated in the following table at or below the price set forth in Column A of this table. Wholesalers who purchase this number from the Raidt Manufacturing Company may make "regular sales" at wholesale of such gloves, at or below the prices set forth in Column B of the table. Ceiling prices for "special sales" at wholesale shall be determined in accordance with section 3 (b) of Revised Maximum Price Regulation 506.

Style No.	Glove description	Column A Manufacturers's prices		Column B Wholesalers' prices
		Group I ceiling	Group II ceiling	
2512	Men's gunn cut 10 ounce single thickness canton flannel back and palm, 14 ounce duck cuff	$2.15	$2.35	$2.55

(b) The maximum prices authorized in paragraph (a) are subject to the following:

(1) The instructions for manufacturers and wholesalers which preface the tables in Appendix A of RMPR 506, including those relating to the pricing of "seconds."

(2) The provisions in section 4 (a) of RMPR 506 with respect to a manufacturers' "wholesale percentage", and the quota of deliveries which must be made at Group I prices;

(3) The marking and informational requirements of section 6 of RMPR 506. In addition to these requirements, the Raidt Manufacturing Company, on all deliveries of the style number listed in paragraph (a), made pursuant to this order, on and after January 25, 1945, must place the letter "S" following the lot number or brand name stated on the label, ticket, or other device used to mark the gloves.

(c) The definitions in RMPR 506 shall apply to this order.

(d) The Raidt Manufacturing Company must furnish each of its customers, who, on or after January 25, 1945, purchases the style number listed in paragraph (a) for purposes of resale, a notice in the form set forth below. The Raidt Manufacturing Company must also notify each such customer (other than a seller at retail) that he is required in turn to transmit to his customers a copy of the notice set forth below. The notice may be attached to the invoice or may be stamped or printed on the invoice.

This notice is sent to you as required by Order No. 70 under section 4 (b) of Revised Maximum Price Regulation 506 issued by the Office of Price Administration. It lists ceiling prices fixed by OPA for the work glove number enumerated in the table below, manufactured by the Raidt Manufacturing Company.

OPA has ruled that the Raidt Manufacturing Company may sell this number at or below the prices listed in Column A below, subject to the provisions of section 4 (a) of RMPR 506 with respect to the quota of deliveries which must be made at Group I prices. Wholesalers in turn are authorized to make regular sales at wholesale of this

number at or below the price listed in Column B. Retailers will determine their ceiling prices on this number in accordance with Section 2 of RMPR 506.

Style No.	Column A Manufacturer's prices		Column B Wholesalers' prices
	Group I ceiling	Group II ceiling	
2512-S	$2.15	$2.35	$2.55

You will note that the letter "S" follows the manufacturers' lot number or brand name. This letter indicates that these gloves have been specifically priced by OPA under section 4 (b).

(e) This Order No. 70 under Revised Maximum Price Regulation 506 may be revoked or amended by the Price Administrator at any time.

This order shall become effective January 25, 1945.

(56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 24th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1494; Filed, Jan. 24, 1945; 4:39 a. m.]

[MPR 136, Rev. Order 389]

INTERNATIONAL RESISTANCE CO.

ESTABLISHMENT OF MAXIMUM PRICES

Revised Order No. 389 under Maximum Price Regulation 136, as amended. Machines and parts, and machinery services. International Resistance Company; Docket No. 6033-136.25a-119.

Order 389 under Maximum Price Regulation 136, as amended, is revised and amended to read as follows:

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to § 1390.25a of Maximum Price Regulation 136, as amended, *It is ordered:*

(a) The maximum prices for sales by International Resistance Company, 401 North Broad Street, Philadelphia, Pennsylvania, of all products manufactured by it, except those manufactured by its Connector Division, shall be the prices filed with the Secretary of the Office of Price Administration and as published in its Manufacturers' Price Schedule M-45 and Jobbers' Price Schedule J-45, both bearing the effective date February 1, 1945, subject to all discounts and allowances to its various classes of purchasers set forth in such schedules.

(b) The maximum prices of resellers for the sale of any product manufactured by the International Resistance Company, except those manufactured by its Connector Division, shall be determined as follows: The reseller shall increase or decrease, as the case may be, the maximum net price he had in effect to each class of purchaser just prior to the issuance of this order by the amount, in dollars and cents, by which his cost has been increased or decreased due to the adjustment granted the International Resistance Company by this order.

(c) International Resistance Company shall give written notification to the resellers mentioned in paragraph (b) of this order of the amounts in dollars and cents by which their maximum prices have been increased or decreased pursuant to this order.

(d) On or before August 15, 1945, the International Resistance Company shall file with the Machinery Branch of the Office of Price Administration, Washington 25, D. C. the following reports:

(1) Profit and loss statements for the complete calendar year 1944 and the first half of the calendar year 1945, for the International Resistance Company, and its Connector Division separately.

(2) A statement of its sales of the items subject to this order for the period February 1, 1945, to June 30, 1945, directly comparing the effect upon its income resulting from the maximum prices established by paragraph (a) of this revised order, with the effect upon income that would have resulted from application of the 5% overall increase granted by Order No. 389 prior to this revision.

(e) Within ten days after the effective date of this order, International Resistance Company shall file with the Machinery Branch of the Office of Price Administration, Washington 25, D. C., ten copies each of its Manufacturers' Price Schedule M-45 and its Jobbers' Price Schedule J-45, as described in paragraph (a) hereof.

(f) This order may be revoked or amended by the Price Administrator at any time.

(g) All requests not granted herein are denied.

This order shall become effective February 1, 1945.

Issued this 25th day of January 1945.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 45-1511; Filed, Jan. 25, 1945; 11:21 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 1-2710]

MUSKEGON PISTON RING CO.

ORDER GRANTING APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 23d day of January, A. D. 1945.

The Muskegon Piston Ring Company, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to withdraw its Common Stock, $2.50 Par Value, from listing and registration on the Detroit Stock Exchange;

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on February 2, 1945.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 45-1475; Filed, Jan. 24, 1945; 2:51 p. m.]

[File No. 59-32]

ASSOCIATED GAS AND ELECTRIC CORP.

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 22d day of January 1945.

The Commission having on August 13, 1942 issued its findings, opinion and order under section 11 (b) (1) of the Public Utility Holding Company Act of 1935 (Holding Company Act Release No. 3729) requiring Denis J. Driscoll and Willard L. Thorp, Trustees of Associated Gas and Electric Corporation, a registered holding company, to divest themselves of all direct and indirect interest in securities issued and properties owned, controlled or operated by certain companies, including Manila Electric Company, Escudero Electric Service Company, and Associated Utilities Investing Corporation; and

Said Trustees having filed a petition, dated January 8, 1945, for modification of the said order by striking therefrom Manila Electric Company, Escudero Electric Service Company, and Associated Utilities Investing Corporation, on the grounds that conditions are now present which did not exist at the time of entry of said order, and that the present prospect of release of the Philippine Islands from Japanese occupation and the desirability in the public interest of a prompt rehabilitation of the properties of the specified companies justify a modification of the said order of August 13, 1942; and

Said Trustees, having stated in said petition that it is not their intention, in requesting a modification of the said order of August 13, 1942 with respect to the Philippine properties, otherwise to affect in any way the status of the pending proceeding under section 11 (b) (1) of the act or to alter their position, as set forth in their answer in said proceeding, in respect of the properties retainable by the Trustees; and that the Trustees would not consider that the granting of the petition for modification would give them the right, in connection with the subsequent reinstatement by the Commission of its divestment order with respect to the Philippine properties, to submit any evidence as to the retainability of those properties under the standards of section 11 (b) (1) of the act; the Trustees assuming, however, that they would be afforded an opportunity to be heard with respect to the appropriateness of the time of such reinstatement in relation to the status of the rehabilitation

program and that they would have the right to oppose the reinstatement on the ground that the status of the rehabilitation program renders such reinstatement inappropriate; and

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said petition:

It is ordered, That a hearing on such matter under the applicable provisions of said act and rules of the Commission thereunder be held on February 6, 1945, at 10:30 a. m., e. w. t., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, at which time the hearing clerk in room 318 will advise as to the room in which such hearing will be held. Any person desiring to be heard in such proceeding shall file with the Commission, on or before February 2, 1945, his request therefor as provided by Rule XVII of the rules of practice of the Commission.

It is further ordered, That Willis E. Monty, or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said act and to a trial examiner under the Commission's rules of practice.

It is further ordered, That, without limiting the scope of the issues presented by said petition, particular attention will be directed at the hearing to the following matters and questions:

1. Whether the conditions upon which the order of August 13, 1942 was predicated do not now exist with respect to Manila Electric Company, Escudero Electric Service Company and Associated Utilities Investing Corporation;

2. Whether, and to what extent, it is appropriate in the public interest or for the protection of investors and consumers to impose terms or conditions with respect to any modification of said order.

It is further ordered, That notice of such hearing be given to the petitioners and to all other interested persons; said notice to be given to petitioners by registered mail and to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935, and by publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 45-1476; Filed, Jan. 24, 1945; 2:51 p. m.]

[File No. 70-1002]

SOUTH CAROLINA POWER CO. AND COMMONWEALTH & SOUTHERN CORP.

SUPPLEMENTAL ORDER RELEASING JURISDICTION AND PERMITTING AMENDMENTS TO APPLICATION-DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 23d day of January, A. D. 1945.

South Carolina Power Company, a public utility company, and its parent, The Commonwealth & Southern Corporation, a registered holding company having filed a joint application-declaration and amendments thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 regarding the exemption from the provisions of section 6 (a) and (7) of said act of the issue and sale by South Carolina Power Company by competitive bidding pursuant to Rule U-50 thereunder, of $8,000,000 principal amount of First and Refunding Mortgage Bonds, due 1975, the interest rate to be determined by the results of competitive bidding, but not to exceed 3¼%; and regarding other matters stated in said application-declaration; and

The Commission having by order dated January 11, 1945 granted the application and permitted the declaration to become effective except as to the price to be paid for said bonds, the redemption price therefor, the coupon rate, the underwriters' spread and its allocation, jurisdiction as to such matters having been reserved pending submission of the results of the competitive bidding; and

South Carolina Power Company and The Commonwealth & Southern Corporation having on January 23, 1945 filed a further amendment to the application and declaration stating that in accordance with the permission granted by the order of the Commission dated January 11, 1945, South Carolina Power Company offered the bonds for sale pursuant to the competitive bidding requirements of Rule U-50 and received the following bids:

Bidder	Price to company	Coupon rate	Cost to company
		Percent	
The First Boston Corporation	100.609	3	2.9692
Harriman Ripley & Co., Incorporated	100.300	3	2.9848
Mellon Securities Corporation	100.2176	3	2.9890
Shields & Company, White, Weld & Co.	100.039	3	2.9980
Lehman Brothers	101.650	3⅛	3.0408
W. C. Langley & Co., Merril Lynch, Pierce, Fenner & Beane	101.4699	3⅛	3.0499
Halsey Stuart & Co. Inc.	101.117	3⅛	3.0678

The amendment further stating that South Carolina Power Company has accepted the bid of The First Boston Corporation for the bonds as set out above and that the bonds will be offered for sale to the public at a price of 101.375% resulting in an underwriters' spread of .766%; and

The Commission having examined the amendment and having considered the record herein and finding no basis for imposing terms and conditions with respect to the matters as to which jurisdiction was reserved;

It is ordered, That the jurisdiction heretofore reserved over the price to be paid for the bonds, the redemption prices therefor, the coupon rate, the underwriters' spread and its allocation be, and the same hereby is, released and that the amendment filed on January 23, 1945 to the application-declaration be, and the same hereby is, granted and permitted to become effective forthwith, subject, however, to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 45-1477; Filed, Jan. 24, 1945; 2:51 p. m.]

[File No. 50-8]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 23d day of January 1945.

The Commission, on August 12, 1943, having applied to the United States District Court for the District of Massachusetts (Civil Action No. 2430), pursuant to sections 11 (d) and 18 (f) of the Public Utility Holding Company Act of 1935, to enforce compliance with an order of the Commission dated July 21, 1942 (Holding Company Act Release No. 3679) issued pursuant to section 11 (b) (2) of the act and directing that International Hydro-Electric System, a registered holding company, be liquidated and dissolved; and

The United States District Court for the District of Massachusetts having upon October 11, 1943, after hearing, entered its interlocutory decree which, among other things, appointed Bartholomew A. Brickley of One Federal Street, Boston, Massachusetts, as Special Counsel, to investigate and make summary and exhaustive inquiry concerning transactions alleged to give rise to causes of action on behalf of International Hydro-Electric System against International Paper Company, a New York corporation, and to make a report to said Court with respect thereto, said decree authorizing said Special Counsel to employ stenographic and clerical help and providing that said Special Counsel be allowed his actual expenses and reasonable compensations for services as may thereafter be approved and allowed by said Court; and

It appearing to the Commission that on November 1, 1944, Bartholomew A. Brickley, as Special Counsel, filed his report on the matters under investigation as provided for in said decree of October 11, 1943, with the United States District Court for the District of Massachusetts;

Notice is hereby given that Bartholomew A. Brickley, as Special Counsel for International Hydro-Electric System, has filed with this Commission an application pursuant to the provisions of sections 11 (d) and 11 (f) of the act and Rule U-63 promulgated thereunder for approval by the Commission of the maximum amount which may be paid to him for his services and expenses incurred as Special Counsel. Said application requests approval for a fee of $30,000 for Bartholomew A. Brickley, as Special Counsel, and for reimbursement of $2,424.80 of expenses consisting of $1,375

for secretarial services, $600.37 for court stenographers, and $449.43 for miscellaneous disbursements such as telephone and travelling expenses;

The Commission deeming it appropriate in the public interest and in the interest of investors that a hearing be held to determine whether or not the application of Bartholomew A. Brickley, as Special Counsel, be approved:

It is ordered, That a hearing be held on such matters under the applicable provisions of the act and the rules of the Commission thereunder on February 12, 1945, at 10:00 a. m., e. w. t., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. On such date, the hearing room clerk in Room 318 will advise as to the room in which such hearing will be held. All persons desiring to be heard or otherwise wishing to participate at said hearing should notify the Commission in the manner provided by Rule XVII of its rules of practice on or before February 8, 1945;

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a trial examiner under the Commission's rules of practice; and

It is further ordered, That notice of this hearing be given to Bartholomew A. Brickley and to International Hydro-Electric System by registered mail, and to all other interested persons by general release of this Commission which shall be distributed to the press and mailed to all persons on the mailing list for the releases issued under the Public Utility Holding Company Act of 1935 and by publication in the FEDERAL REGISTER; and that Bartholomew A. Brickley, as Trustee of International Hydro-Electric System, shall cause to be published, at least ten days prior to the hearing date set herein, a copy of this notice of filing and order for hearing in a newspaper of general circulation in the cities of Boston, Massachusetts, and New York, New York, and shall mail a copy of this notice of filing and order for hearing to all persons granted intervention or participation in Civil Action No. 2430 in the United States District Court for the District of Massachusetts.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 45-1525; Filed, Jan. 25, 1945; 11:26 a. m.]

[File No. 54-118]

UNITED CORPORATION

NOTICE OF FILING AND ORDER FOR HEARING ON PLAN AND ORDER INCORPORATING RECORD

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 23d day of January 1945.

Notice is hereby given that The United Corporation ("United"), a registered holding company, has filed an application for approval of a plan under section 11 (e) of the Public Utility Holding Company Act of 1935 proposing action described as necessary to effectuate the provisions of section 11 (b) of the act, and for the approval of incidental and related transactions;

The transactions proposed in said plan are further described as a step in compliance with the Commission's order of August 14, 1943, pursuant to section 11 (b) (2) of the act, directing United to change its existing capitalization to one class of stock, namely, common stock, and to take such action, in a manner consistent with the provisions of said act, as will cause it to cease to be a holding company;

All interested persons are referred to said plan which is on file in the office of the Commission for a full statement of the transactions therein proposed which may be summarized as follows:

(1) United has outstanding 1,366,522⅙ shares of $3 Cumulative Preference Stock with a voluntary and involuntary liquidating value of $50 per share. At December 31, 1944, accrued and unpaid dividends on said shares of Preference Stock aggregated $9,224,024, or $6.75 per share. On January 17, 1945, a dividend of $1.75 per share was declared, payable February 14, 1945. United proposes to offer to exchange for each such share, up to and including 151,655 shares of said outstanding Preference Stock, the following:

(a) Two shares of common stock of Delaware Power & Light Company,

(b) $5.00 in cash.

(2) The offer of exchange is proposed to be made with respect to all rights and claims represented by each share of United's $3 Cumulative Preference Stock accepted for exchange, including any and all rights and claims to accrued and unpaid dividends thereon.

(3) If the provisions of the plan are approved by the Commission, it is proposed that the offer of exchange be mailed to holders of the $3 Cumulative Preference Stock, and that the offer remain open for a minimum period of 15 days after such mailing. A maximum of 151,655 shares of Preference Stock will be accepted for exchange by United (except that a limited number of shares more or less than the foregoing amount may be exchanged in order to eliminate fractions resulting from prorations). If during said 15-day period more than 151,655 shares of Preference Stock shall have been tendered for exchange, a pro rata distribution of the securities and cash to be exchanged shall be made among all holders who have tendered Preference Stock in excess of 10 shares each on the basis of the number of shares of Preference Stock tendered. In all cases, however, where the pro rata distribution would result in the possible acceptance of less than 10 shares of Preference Stock, 10 shares of Preference Stock will be accepted for exchange. If less than 151,655 shares of the Preference Stock shall be tendered during said 15-day period, it is proposed that all shares of Preference Stock tendered will be accepted and that the offer shall thereafter remain open, on a "first come—first served" basis for an additional period of 30 days and that United may apply to the Commission for further extensions of time for the acceptance of Preference Stock.

(4) The plan further provides that the offer may be accepted by a stockholder only by the deposit with the exchange agent to be designated by United, on or before 3 p. m. on the last day of the period during which the offer remains open, of the certificates of the shares of $3 Preference Stock to be exchanged, or by the delivery to the exchange agent of an undertaking, in the form prescribed by United, agreeing to deliver the share certificates by a date to be specified. Upon presentation by the holder of certificates of the shares of Preference Stock to the exchange agent, the latter will deliver to such holder, as soon as practicable, certificates for the aggregate number of shares of Delaware Power & Light Company common stock, together with the cash payment, to which such holder shall be entitled under the proposed exchange offer.

United holds 303,311 shares of Delaware Power & Light Company common stock representing 26.1% of said company's outstanding voting securities. If the plan for which approval is sought by United is fully consummated, substantially all of the shares of common stock of Delaware Power & Light Company owned by United will be disposed of. In addition, United's outstanding shares of $3 Cumulative Preferred Stock will be reduced from 1,366,522⅙ shares to 1,214,867⅙ shares. Shares of Preference Stock to be received by United pursuant to the exchange offer are proposed to be retired in accordance with the applicable provisions of the General Corporation Law of the State of Delaware.

The Commission being required by the provisions of section 11 (e) of the act, before approving any plan submitted thereunder, to find after notice and opportunity for hearing that such plan, as submitted or as modified, is necessary to effectuate the provisions of subsection (b) of section 11, and is fair and equitable to the persons affected by such plan; and it appearing appropriate in the public interest and in the interests of investors and consumers that notice be given and a hearing be held with respect to said plan; and

It further appearing to the Commission that all or part of the evidence with respect to The United Corporation holding company system adduced in the proceeding designated as File No. 54-89, being the proceeding in which the Commission approved United's previous plan of exchange, may have a bearing upon the issues presented by the pending plan, and that a substantial saving of time and expense will result if such evidence adduced in said prior proceeding is used in connection with the consideration of the issues raised in the pending plan;

It is ordered, That the record of the proceeding designated as File No. 54-89 be, and hereby is, incorporated into the record of the proceeding with respect to

the pending plan subject, however, and without prejudice, to the Commission's right, upon its own motion or the motion of any interested party, to strike such portion of the record in respect of said prior proceeding as may be deemed irrelevant to the issues raised by the pending plan.

It is further ordered, That a hearing under the applicable provisions of the act and rules thereunder be held at 10 a. m., e. w. t. on the 27th day of February 1945, in the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, in such room as may be designated on that day by the hearing room clerk in Room 318.

It is further ordered, That Willis E. Monty, or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under section 18 (c) of said act and to a trial examiner under the Commission's rules of practice.

It is further ordered, That notice of said hearing be given to The United Corporation by mailing a copy of this notice and order forthwith by registered mail, and that notice be given to all other persons by a general release by the Commission distributed to the press and mailed to the mailing list for releases under the act, and by publication of this notice and order in the FEDERAL REGISTER; and

It is further ordered, That the United Corporation shall give appropriate notice of this hearing, in such form as the Commission may hereafter approve, to all of the holders of its Common and Preference Stock (insofar as the identity of such holders is known or available to United) at least twenty days prior to February 27, 1945.

It is further ordered, That any person desiring leave to be heard or otherwise wishing to participate in these proceedings shall notify the Commission on or before February 21, 1945, in the manner provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That, without limiting the scope of the issues presented by said plan, as submitted or as modified, particular attention will be directed at said hearing to the following matters and questions:

(1) Whether the plan, as submitted or as modified, is necessary to effectuate the provisions of section 11 (b) of the act;

(2) Whether the proposed plan, as submitted or as modified, is fair and equitable to the persons affected by said plan;

(3) Whether the transactions proposed in said plan comply with all of the requirements of the applicable provisions of the act and rules promulgated thereunder;

(4) Whether the plan, as filed or as modified, makes appropriate provision for the payment of fees, expenses and remuneration in connection with the proposed plan, and in what amounts such fees, expenses and remuneration should be paid, and the fair and equitable allocation thereof;

(5) Whether, and to what extent, the proposed plan should be modified or terms and conditions imposed to ensure adequate protection of the public interest and the interests of investors and consumers and compliance with all applicable provisions of the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 45-1527; Filed, Jan. 25, 1945; 11:27 a. m.]

[File No. 70-736]

ALABAMA WATER SERVICE CO., AND FEDERAL WATER AND GAS CORP.

SUPPLEMENTAL ORDER WITH RESPECT TO SALES OF PROPERTY

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 23d day of January, A. D. 1945.

The Commission having on February 10, 1943 issued an order, pursuant to sections 11 (b) and 11 (e) of the Public Utility Holding Company Act of 1935, directing, among other things, that Federal Water and Gas Corporation ("Federal"), a registered holding company, dispose of its interests in Alabama Water Service Company ("Alabama"), a direct subsidiary of Federal, and approving a plan filed by Federal providing, among other things, that Federal would dispose of its interests in Alabama; Federal and Alabama having subsequently from time to time filed certain applications and declarations concerned with the divestment by Alabama of certain of its properties and the use by Alabama of the proceeds derived from such sales for the redemption and retirement of the First Mortgage Bonds of Alabama, said applications and declarations, bearing the above set forth caption, having heretofore been granted and permitted to become effective; Federal and Alabama having now filed a joint amendment to these latter mentioned proceedings concerned with the proposed divestment by Alabama of certain of its water systems to municipalities and towns, or their nominees, in the State of Alabama, all as more particularly described hereinafter, and the use of the proceeds to be derived from such sales for the retirement of First Mortgage Bonds of Alabama, as more particularly described hereinafter; it appearing that these transactions are steps in the consummation by Federal of its program for the divestment of its interests in the business and properties of Alabama, that the properties being disposed of by Alabama are subject to the lien of the indenture securing Alabama's First Mortgage Bonds, and that the use of the proceeds from the said sales for the retirement or cancellation of First Mortgage Bonds by Alabama is necessary or appropriate to effectuate the requirements of section 11 (b) of the act; and

Federal and Alabama having requested that this Commission find that said proposed transactions are necessary or appropriate to the integration or simplification of the holding company system of which Federal and Alabama are members and further requesting that such order or orders as we shall issue in this matter conform with the requirements of sections 371 (b), 371, (d), 371 (f), and 1808 (f) of the Internal Revenue Code, as amended, and contain the recitals and specifications described therein;

It is ordered and recited, That the following sales for cash by Alabama Water Service Company of the properties, specified and itemized in this order and in the documents herein referred to and incorporated in this order by reference as herein set forth, and the use of the proceeds from the sales of said properties to the retirement or cancellation of First Mortgage Bonds of Alabama Water Service Company are necessary or appropriate to the integration or simplification of the Federal Water and Gas Corporation holding company system of which Alabama Water Service Company is a member and are necessary and appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935:

(a) The sale to the Water Works Board of the City of Ozark, Alabama of the water works system of the Company servicing the City of Ozark, Alabama and territory contiguous thereto in Dale County, Alabama for the sum of $115,000 in cash;

(b) The sale to the City of Russellville, Alabama, or its nominee, of the water works system of the Company serving the City of Russellville, Alabama and territory contiguous thereto in Franklin County, Alabama for the sum of $110,000 in cash;

(c) The sale to the City of Fort Payne, Alabama, or its nominee, of the water works system of the Company serving the City of Fort Payne, Alabama and territory contiguous thereto in DeKalb County, Alabama for the sum of $165,000 in cash;

(d) The sale to the Town of Bay Minette, Alabama, or its nominee, of the water works system of the Company serving the Town of Bay Minette, Alabama and territory contiguous thereto in Baldwin County, Alabama for the sum of $65,000 in cash; and

(e) The sale to the Town of Sampson, Alabama, or its nominee, of the water works system of the Company serving the Town of Sampson, Alabama and territory contiguous thereto in Geneva County, Alabama for the sum of $13,500 in cash;

The said properties referred to in subdivisions (a), (b), (c), (d), and (e) being more completely specified, itemized, and described in certain documents entitled "Specification and Itemization of Properties of Alabama Water Service Company to be Sold" marked respectively H-1, H-2, H-3, H-4, and H-5 of Amendment No. 5A and filed with the Securities and Exchange Commission as a part of the record in this proceeding, which said documents are hereby incorporated by

reference in this order and made a part hereof with the same force and effect as if set forth at length herein.

It is further ordered, That the proceeds of each of the sales of the properties so specified and itemized shall be applied to the redemption, pursuant to the terms thereof, and cancellation of First Mortgage Bonds, 3¾% Series, due 1965, of Alabama Water Service Company issued under an indenture dated as of September 1, 1940 between Alabama Water Service Company and Central Hanover Bank and Trust Company, as trustee, which indenture has been modified in certain respects by a supplemental indenture dated as of July 1, 1943.

It is further ordered, That the sales of said properties shall be completed within six months from the date of this order and the proceeds of the sales thereof shall be applied to the redemption, retirement and cancellation of First Mortgage Bonds of Alabama Water Service Company not later than September 1, 1945.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 45-1526; Filed, Jan. 25, 1945; 11:27 a. m.]

WAR PRODUCTION BOARD.

[C-256]

MRS. SCHLORER'S, INC.

CONSENT ORDER

Mrs. Schlorer's, Incorporated, having its place of business at 2525 Dickinson Street, Philadelphia, Pennsylvania, is engaged in the manufacture of mayonnaise and salad dressings, which are distributed throughout the eastern part of the United States. An investigation by the War Production Board discloses that during the second, third and fourth quarters of 1944, the company exceeded its quota in accepting delivery and using new fibre shipping containers for packing mayonnaise and salad dressings, in violation of Limitation Order L-317, in that during the second quarter it exceeded its quota by 152,166 square feet or 20,733 pounds and in the third quarter by 142,860 square feet or 19,355 pounds, and in the fourth quarter by 44,065 square feet with no violation as to weight, making a total of 338,791 square feet and 40,088 pounds.

Mrs. Schlorer's, Incorporated, admits the violations as charged by the War Production Board, but denies that it was willful, and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of Mrs. Schlorer's, Incorporated, the Regional Compliance Manager and the Acting Regional Attorney, and upon approval of the Compliance Commissioner, *It is hereby ordered*, That:

(a) Mrs. Schlorer's, Incorporated, its successors or assigns, shall reduce its acceptance and use of new fibre shipping containers by 84,697 square feet and 10,022 pounds during each of the four quarters of 1945, under the quota it would otherwise be entitled to accept or use as specified by the provisions of Limitation Order L-317, as amended from time to time, unless otherwise authorized in writing by the War Production Board.

(b) Nothing contained in this order shall be deemed to relieve Mrs. Schlorer's, Incorporated, its successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the War Production Board, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 24th day of January 1945.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 45-1487; Filed, Jan. 24, 1945; 4:11 p. m.]